



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

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

**“G.R. No. 250662 (Allan Palomata y Dela Cruz, Petitioner v. People of the Philippines, Respondent).** — This Court resolves the Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> and Resolution<sup>3</sup> of the Court of Appeals in CA-G.R. CR No. 41688 which affirmed the Decision<sup>4</sup> of Branch 91, Regional Trial Court, Santa Cruz, Laguna, finding petitioner Allan Palomata y Dela Cruz (*Palomata*) guilty beyond reasonable doubt of violation of Sections 11 and 12, Article II of Republic Act No. 9165.<sup>5</sup>

*Antecedents*

On May 18, 2008, two Informations were filed against Palomata for violation of Sections 11 and 12, Article II of Republic Act No. 9165. The accusatory portion of each Information reads:

**Criminal Case No. SC-13227**

That on or about April 30, 2008, in the Municipality of Pila, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized or permitted by law, did then and there willfully, unlawfully and feloniously have in his possession, control and custody seven (7) small heat-sealed transparent plastic sachets containing a total weight of 0.24 gram of Methamphetamine Hydrochloride (SHABU), a dangerous drug.

CONTRARY TO LAW.<sup>6</sup>

<sup>1</sup> *Rollo*, pp. 11–30.

<sup>2</sup> *Id.* at 34–50. The July 24, 2019 Decision was penned by Associate Justice Rafael Antonio M. Santos, and concurred in by Associate Justices Remedios A. Salazar-Fernando and Manuel M. Barrios of the Second Division, Court of Appeals, Manila.

<sup>3</sup> *Id.* at 52–54. The November 27, 2019 Resolution was penned by Associate Justice Rafael Antonio M. Santos, and concurred in by Associate Justices Remedios A. Salazar-Fernando and Manuel M. Barrios of the Former Second Division, Court of Appeals, Manila.

<sup>4</sup> *Id.* at 145–150. The April 3, 2018 Decision was penned by Presiding Judge Divina Gracia G. Bustos-Ongkeko, Branch 91, Regional Trial Court, Santa Cruz, Laguna.

<sup>5</sup> Comprehensive Dangerous Drugs Act of 2002.

<sup>6</sup> *Rollo*, p. 35.

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**Criminal Case No. SC-13228**

That on or about April 30, 2008, in the Municipality of Pila, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized and permitted by law, did then and there willfully, unlawfully and feloniously have in his possession, control and custody aluminum foil strips, improvised tooter, improvised spoons and improvised heating pots which are paraphernalias fit or intended for smoking, consuming, or introducing any dangerous drug into the body.

CONTRARY TO LAW.<sup>7</sup>

On arraignment, Palomata pleaded not guilty. Pre-trial commenced and trial on the merits followed.<sup>8</sup>

The prosecution alleged that pursuant to a tip from a confidential informant, members of the Philippine National Police of Pili, Laguna conducted a surveillance against Palomata several times and confirmed that he was engaged in illegal drugs activities. Thus, on April 30, 2008, a buy-bust team was formed with Police Officer 3 Efren Sales (*PO3 Sales*) as team leader, PO2 Marlon Pamulaklakin<sup>9</sup> (*PO2 Pamulaklakin*) as poseur-buyer, PO2 Ferdinand Leechiu<sup>10</sup> (*PO2 Leechiu*), PO2 Louise Escarlan (*PO2 Escarlan*), PO1 Anthony Miano and PO3 Arvin Cornejo (*PO3 Cornejo*) as team members. Before the conduct of the buy-bust operation, PO3 Sales prepared a pre-operation report, request to operate for the Philippine Drug Enforcement Agency (*PDEA*), as well as a PHP 200.00 bill which he marked with the initials "MCP" at the lower portion.<sup>11</sup>

Without wasting time, the buy-bust team proceeded to the target area located at Barangay Aplaya, Pila, Laguna. With the aid of the confidential informant, PO2 Pamulaklakin was able to negotiate with Palomata for the sale of illegal drugs. He handed to Palomata the marked money, and in exchange, the latter gave the former one plastic sachet containing white crystalline substance. PO2 Pamulaklakin immediately made the pre-arranged signal to signify that the sale had been consummated. Palomata attempted to escape but the buy-bust team was able to apprehend him. The police operatives seized seven sachets of suspected *shabu* from his pocket when he was frisked. Aside from the plastic sachets, drug paraphernalia were also recovered from him.<sup>12</sup>

At the place of arrest, the police officers marked the seized items and took pictures thereof in the presence of the Chief of *Bantay Bayan* and the

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<sup>7</sup> *Id.* at 36.

<sup>8</sup> *Id.*

<sup>9</sup> Also referred to as PO1 Pamulaklakin in some parts of the *rollo*.

<sup>10</sup> Also spelled as Licho in some parts of the *rollo*.

<sup>11</sup> *Rollo*, p. 131.

<sup>12</sup> *Id.*

aunt of Palomata. Due to the growing number of onlookers, the police officers decided to proceed to the Pila Police Station where PO2 Pamulaklakin completed the marking of the seized items and thereafter turned them over to the Chief of Police. The seized items were marked as follows: (a) the eight sachets seized were marked with the initials “ADP-1” to “ADP-8”; (b) the eight strips of aluminum foil placed in a plastic sachet marked as “ADP-9”; (c) one improvised water pipe placed in a plastic sachet was marked as “ADP-10”; (d) two disposable lighters placed in a plastic sachet marked as “ADP-11”; (e) one piece of Kelly forceps placed in a plastic sachet marked as “ADP-12”; (f) one bamboo stick with needle marked as “ADP-13”; (g) and two pieces of improvised spoons marked as “ADP-14”. Police Superintendent Leovigildo Dela Cruz Manaig (*PSupt. Manaig*) then prepared the request for the conduct of laboratory examination of the seized items.<sup>13</sup>

PO2 Pamulaklakin brought the confiscated items to the Philippine National Police Crime Laboratory for testing. Forensic Chemist Donna Villa P. Huelgas (*FC Huelgas*) subjected the specimens to qualitative analyses and found the items marked as “ADP-1” to “ADP-7”; “ADP-9”; “ADP-10”; and “ADP-14” to be positive for the presence of methamphetamine hydrochloride.<sup>14</sup> Hence, the said charges.

Palomata denied the accusations and contended that on the day in question, he was inside his residence in Barangay Aplaya, Pila, Laguna with his wife, Narissa, and his nephew, Frank. He was in his bedroom watching television when someone knocked on the door. When he opened it, he saw PO2 Escarlan, PO2 Leechiu, PO3 Sales and PO3 Cornejo who forced him to get out of the room and to the living room where he was frisked. He claimed that there is no truth that *shabu* was recovered from him when he was bodily searched. He added that Frank was also forced to get out of the room while the police searched the two other rooms. When Frank was frisked, the police officers claimed that they recovered a PHP 200.00 bill from his wallet. Drug paraphernalia were also allegedly found by the police operatives. Thereafter, he was brought to the police station.<sup>15</sup>

On April 3, 2018, the Regional Trial Court rendered a Decision<sup>16</sup> finding Palomata guilty of all the charges, the *fallo* of which reads:

**WHEREFORE**, premises considered:

1. In Criminal Case No. SC-13227, accused Allan Palomata y Dela Cruz is hereby found **GUILTY** beyond reasonable doubt of the crime of Violation of Section 11, Article II of R.A. 9165, and is sentenced to suffer the indeterminate penalty of imprisonment of **twelve (12) years**

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<sup>13</sup> *Id.* at 45, 131, 139.

<sup>14</sup> *Id.* at 83–84; 131–132.

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

<sup>16</sup> *Id.* at 145-150.

**and one (1) day**, as minimum, to **fourteen (14) years**, as maximum, and to pay a fine of **₱300,00[0].00**; and,

2. In Criminal Case No. SC-13228, accused Allan Palomata y Dela Cruz is hereby found **GUILTY** beyond reasonable doubt of the crime of Violation of Section 12, Article II, RA 9165, and is sentenced to suffer the indeterminate penalty of imprisonment of **six (6) months and one (1) day**, as minimum, to **four (4) years**, as maximum, and to pay a fine of **₱10,000.00**.<sup>17</sup> (Emphasis in the original)

The Regional Trial Court was convinced that all the elements of illegal possession of dangerous drugs and paraphernalia had been proven beyond reasonable doubt. While there might have been minor lapses in the handling of the confiscated items, the Regional Trial Court ruled that the integrity and evidentiary value of the seized items had been duly preserved. It found the testimony of PO2 Pamulaklakin credible in light of the presumption of regularity that police officers are accorded in the performance of their official duties. The defense of denial proffered by Palomata, on the other hand, was found to be weak, self-serving, and unworthy of belief.<sup>18</sup>

Believing in his innocence, Palomata interposed an appeal with the Court of Appeals.<sup>19</sup>

In a Decision,<sup>20</sup> the Court of Appeals denied the appeal for lack of merit. It held that even if the police operatives did not strictly comply with the requirements laid down in Section 21 of Republic Act No. 9165, the evidentiary weight of the seized items from Palomata was not affected because the crucial links in the chain of custody of the seized *shabu* and paraphernalia were all clearly established. The prosecution was able to show the continuous whereabouts of the seized items from the time they came to the possession of the police officers, until the same were tested in the laboratory to determine their composition, and up to the time they were offered in evidence. The bare denial of Palomata cannot prevail over the positive and categorical testimony of the prosecution witness who is presumed to have performed their duty in a regular manner absent any showing of ill motive on the part of the police officer to testify falsely against them.<sup>21</sup> The Court of Appeals disposed of the case in this manner:

**WHEREFORE**, the appeal is **DENIED** for lack of merit. The *Decision* dated 3 April 2018 rendered by the Regional Trial Court, Fourth Judicial Region, Branch 91, Santa Cruz, Laguna in Criminal Case No. SC-13227-28, finding accused-appellant guilty beyond reasonable doubt for violation of Sections 11 and 12, Article II of Republic Act No. 9165, is **AFFIRMED**.

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<sup>17</sup> *Id.* at 150.

<sup>18</sup> *Id.* at 148–150.

<sup>19</sup> *Id.* at 16.

<sup>20</sup> *Id.* at 34–50

<sup>21</sup> *Id.* at 42–48.

**SO ORDERED.**<sup>22</sup> (Emphasis in the original)

Palomata moved for reconsideration but the Court of Appeals denied the same.<sup>23</sup> Hence, this petition.

### Issue

The issue presented for this Court's consideration is whether the Court of Appeals gravely erred in affirming the trial court's judgment finding Palomata guilty beyond reasonable doubt for violation of Sections 11 and 12, Article II of Republic Act No. 9165.

Palomata contends that he was wrongfully convicted of the crimes charged for failure of the police operatives to strictly adhere to the requirements under Section 21 of Republic Act No. 9165 thereby putting in serious doubt the identity and evidentiary value of the drugs and paraphernalia allegedly recovered from him. In particular, he claims that: (a) no witness required by law was present during the inventory of the seized items, as in fact, no inventory of the seized items was even made; (b) the marking of the seized items was belatedly made at the police station; and (c) the marking of the evidence seized did not follow Section 13 of the Philippine National Police Manual on Anti-Illegal Drugs Operation and Investigation which provides that the seizing officer must mark the evidence not only with his initials, but as well as the date, time and place where the evidence was found and seized. He contends further that contrary to the ruling of the Court of Appeals, the presumption of regularity in the performance of the police officer's duty cannot be applied in this case. The glaring disregard by the police officers of the established procedure under Section 21 of Republic Act No. 9165 shows that they are guilty of irregularity, thereby effectively overthrowing the presumption that they performed their duties in a regular manner.<sup>24</sup>

In its Comment, the Office of the Solicitor General (*respondent*), contends that the petition must fail as it poses questions of fact which are not the proper subject of an appeal by *certiorari*. In any event, respondent insists that the Court of Appeals did not err in affirming the conviction of Palomata for the crimes he was charged with given that the prosecution witness was able to describe in detail how the four crucial links in the chain of custody were observed even if the police officers failed to strictly abide by the procedure in Section 21. Since the integrity and evidentiary value of the seized items had been properly preserved, Palomata's conviction is in order. Furthermore, respondent argues that the bare denial of Palomata cannot overcome the presumption of regularity enjoyed by the police officers in the

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<sup>22</sup> *Id.* at 49–50.

<sup>23</sup> *Id.* at 52–54.

<sup>24</sup> *Id.* at 21–26.

handling of exhibits as well as the presumption that they discharged their duties properly.<sup>25</sup>

### **This Court's Ruling**

The petition is meritorious. The prosecution failed to prove Palomata's guilt beyond reasonable doubt.

In prosecuting a case for illegal possession of dangerous drugs under Section 11 of Republic Act No. 9165, the following elements must concur: "(1) the accused is in possession of an item or object which is identified as a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug."<sup>26</sup>

On the other hand, for a conviction for illegal possession of equipment, instrument, apparatus and other paraphernalia for dangerous drugs under Section 12 of Republic Act No. 9165 to prosper, the following elements must be shown to exist: "(1) possession or control by the accused of any equipment, apparatus or other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body; and (2) such possession is not authorized by law."<sup>27</sup>

Jurisprudence states that in these cases, it is essential that the identity of the seized drug/paraphernalia be established with moral certainty. Thus, in order to obviate any unnecessary doubts on such identity, the prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug/paraphernalia from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.<sup>28</sup>

In *People v. Villalon*,<sup>29</sup> this Court explained that the chain of custody is divided into four links: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug by the forensic chemist to the court. In order to preserve their identity and evidentiary value, Republic Act No. 9165, its Implementing Rules and Regulations and Republic Act No.

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<sup>25</sup> *Id.* at 135–143.

<sup>26</sup> *People v. Dadang*, G.R. No. 242880, January 22, 2020 [Per J. J. Reyes, Jr., First Division]. (Citation omitted)

<sup>27</sup> *Derilo v. People*, 784 Phil. 679 (2016) [Per J. Brion, Second Division]. (Citation omitted)

<sup>28</sup> *People v. Rivera*, G.R. No. 252886, March 15, 2021 [Per J. Perlas-Bernabe, Second Division].

<sup>29</sup> G.R. No. 249412, March 15, 2021 [Per J. Perlas-Bernabe, Second Division].

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10640<sup>30</sup> require that all items seized from the accused, particularly, “all dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered,” undergo the proper chain of custody procedure.<sup>31</sup>

A careful review of the records of this case reveals that the crucial links in the chain of custody had not been duly established.

The first link was breached. The first link refers to the marking, inventory and photograph of the seized items.<sup>32</sup> Section 21(1), Article II of Republic Act No. 9165 provides the procedure for the first link in the chain of custody by describing in detail the steps to be taken by the apprehending officer having initial custody and control of the seized items.<sup>33</sup> This section was amended by Republic Act No. 10640 which took effect on August 7, 2014.<sup>34</sup> Since the Informations alleged that the crimes were committed on April 30, 2008, Section 21 prior to its amendment governs. The section provides:

SECTION 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

- (1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.

Section 21 (a) of the Implementing Rules and Regulations of Republic Act No. 9165 complements the foregoing provision.<sup>35</sup> It states:

<sup>30</sup> 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.

<sup>31</sup> *Id.*, citing Section 21 of Republic Act No. 9165; Section 21 of the Implementing Rules and Regulations and Section 1 of Republic Act No. 10640.

<sup>32</sup> *Barayuga v. People*, G.R. No. 248382, July 28, 2020 [Per J. Lazaro-Javier, First Division].

<sup>33</sup> *People v. Asjali*, 839 Phil. 439 (2018) [Per J. Leonardo-De Castro, First Division].

<sup>34</sup> *People v. De Dios*, G.R. No. 243664, January 22, 2020 [Per J. Perias-Bernabe, Second Division].

<sup>35</sup> *People v. Omamos*, G.R. No. 223036, July 10, 2019 [Per J. Lazaro-Javier, Second Division].

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.<sup>36</sup>

In a plethora of cases,<sup>37</sup> this Court has consistently stressed that the presence of the required insulating witnesses at the time of inventory and photography is mandatory as these witnesses will guard against planting of evidence and frame-up. Their presence will also shield the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity.<sup>38</sup>

The records of the case bear out that the police operatives failed to secure the presence of the required witnesses when the seized items were being inventoried. Respondent's own statement confirms this observation:

35. Second, petitioner's argument that the required witnesses were not present and that no inventory was ever made, is likewise amiss.

36. The facts of the case reveal that *during the conduct of inventory, the Chief of the Bantay Bayan and the petitioner's aunt were present.*<sup>39</sup> (Emphasis supplied)

Due to the peculiar circumstances attendant in every case, strict compliance with the requirements of the law may not always be possible. Thus, the Implementing Rules and Regulations of Republic Act No. 9165

<sup>36</sup> Implementing Rules and Regulations of Republic Act No. 9165, August 30, 2002.

<sup>37</sup> See *People v. Mendoza*, 736 Phil. 749 (2014) [Per J. Bersamin, First Division]; *People v. Sagana*, 815 Phil. 356 (2017) [Per J. Leonen, Second Division]; *People v. Tomawis*, 830 Phil. 385 (2018) [Per J. Caguioa, Second Division].

<sup>38</sup> *People v. Sagana*, *id.*

<sup>39</sup> *Rollo*, p. 140.



provides for a saving clause to ensure that not every noncompliance with the procedure laid down for the preservation of the chain of custody will work against the prosecution's case against the accused. In order for the saving clause to apply, however, the following must be present: (1) the existence of justifiable grounds to allow departure from the rule on strict compliance; and (2) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.<sup>40</sup> In *People v. Lim*,<sup>41</sup> this Court held that:

It must be **alleged and proved** that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

**(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.**<sup>42</sup> (Emphases in the original)

Here, none of the required witnesses were present during the conduct of the inventory. Jurisprudence described the nature of *Bantay Bayan* "as a group of male residents living in [the] area organized for the purpose of keeping peace in their community [which is] an accredited auxiliary of the . . . Philippine National Police." Thus, they are civilian volunteers who act as "force multipliers" to assist law enforcement agencies in maintaining peace and security within their designated areas.<sup>43</sup> As such, not even the signature of the *Bantay Bayan* would qualify as compliance with the chain of custody rule. Despite the lack of the required witnesses as mandated under Section 21, the prosecution did not bother to show that efforts were exerted to secure their attendance. Inasmuch as a buy-bust operation is, by its very nature, a planned activity, the apprehending team had sufficient time to look for and bring with them these witnesses.<sup>44</sup> Such failure left unexplained, as in this case, is therefore, inexcusable. Without the three witnesses, the Court is unsure whether there had been planting of evidence and/or contamination of the

<sup>40</sup> *People v. Arellaga*, G.R. No. 231796, August 24, 2020 [Per J. Hernando, Second Division].

<sup>41</sup> 839 Phil. 598 (2018) [Per J. Peralta, *En Banc*].

<sup>42</sup> *Id.*

<sup>43</sup> *Miguel v. People*, 814 Phil. 1073, 1081 (2017) [Per J. Perlas-Bernabe, First Division]. (Citations omitted)

<sup>44</sup> *People v. Adobar*, 832 Phil. 731, 754 (2018) [Per J. Caguioa, Second Division].

seized items, thereby compromising the integrity and evidentiary value of the *corpus delicti*.<sup>45</sup>

The second link in the chain of custody was also breached. This involves the turn-over of the confiscated drugs to the police station, the recording of the incident, and the preparation of the necessary documents such as the request for laboratory examination of the seized items. Since it is likely that the handling police officer or officers came in contact with the seized items at this stage of the procedure, it therefore becomes necessary that such officer or officers be identified and accounted for and be made to explain the steps that were taken to ensure that the integrity and evidentiary value of the seized items were not compromised during the said turnover and while the same are in their possession.<sup>46</sup>

To show the second link in the chain of custody, all respondent said was that PO2 Pamulaklakin turned over the seized items to PSupt. Manaig for the preparation of the request for their laboratory examination and nothing more.<sup>47</sup> The absence of specific and detailed description of how the seized items had been preserved every time they change hands amounts to a broken and unreliable chain of custody which is fatal to the respondent's case.<sup>48</sup>

In addition, the fourth link was also breached. This last link involves the submission of the seized items by the forensic chemist to this Court when presented as evidence in the criminal case.<sup>49</sup> In drug-related cases, it is of paramount necessity that the forensic chemist testify on the details pertaining to the handling and analysis of the dangerous drug and/or paraphernalia submitted for examination; in particular, when and from whom they were received; what identifying labels or other things accompanied them; description of the specimen; and the container they were in. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimens.<sup>50</sup>

As a rule, the forensic chemist must testify as to the foregoing matters so as to show compliance with the fourth link. However, the parties may opt to dispense with the attendance and testimony of the forensic chemist. In such event, the parties must agree to stipulate that: (a) the forensic chemist received the seized articles as marked, properly sealed, and intact; (b) the forensic chemist resealed it after examining the contents; and (c) the forensic chemist placed their own marking on the same to ensure that they will not be tampered

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<sup>45</sup> *Supra* note 40.

<sup>46</sup> *People v. Villojan, Jr.*, G.R. No. 239635, July 22, 2019 [Per J. Lazaro-Javier, Second Division].

<sup>47</sup> *Rollo*, p. 139.

<sup>48</sup> *People v. Sultan*, G.R. 225210, August 7, 2019 [Per J. Leonen, Third Division].

<sup>49</sup> *People v. Del Rosario*, G.R. No. 235658, June 22, 2020 [Per J. Gesmundo, Third Division].

<sup>50</sup> *Supra* note 35, at 382. (Citation omitted)

pending trial. Absent such stipulations, the fourth link cannot be established, thus, resulting in acquittal/s.<sup>51</sup>

In this case, the parties agreed to dispense with the testimony of FC Huelgas, and in lieu thereof, entered into the following stipulation of facts:

1. That Forensic Chemist Donna Villa P. Huelgas (FC Huelgas) is an expert in forensic chemistry and an employee of the Philippine National Police Crime Laboratory;
2. That she received a *Request for Laboratory Examination* involving subject specimens from the MPS, Pila, Laguna;
3. That said forensic chemist conducted a series of examinations and thereafter found that the specimen contained methamphetamine hydrochloride, a dangerous drug;
4. That FC Huelgas reduced her findings and conclusions into writing as embodied in Chemistry Report No. LD-132-08; and
5. That FC Huelgas has no personal knowledge as to the original source of the specimens examined by her.<sup>52</sup>

From the foregoing, it appears that the matters stipulated cover only the fact that specimens were received for testing and the results thereof. The stipulation does not cover the manner the specimens were handled before they came to the possession of the forensic chemist and after they left her possession.<sup>53</sup> The fourth link in the chain of custody of the seized drugs and paraphernalia could not be reasonably established absent any testimony regarding the management, storage, and preservation of the items seized after they were subjected to qualitative examination.<sup>54</sup>

The failure of the respondent to establish every link in the chain of custody casts serious doubts on the integrity, identity, and evidentiary value of the items allegedly seized from Palomata. This entitles Palomata to a verdict of acquittal on the ground of reasonable doubt. The prosecution cannot hide behind the presumption of regularity in the performance of official duty in order to sustain Palomata's conviction as the presumption only arises when the records do not indicate any irregularity or flaw in the performance of official duty, and not when there is a clear showing that the apprehending officers unjustifiably failed to comply with the requirements under Section 21 of Republic Act No. 9165 and its Implementing Rules and Regulations.<sup>55</sup>

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<sup>51</sup> *People v. Rivera*, G.R. No. 252886, March 15, 2021 [Per J. Perlas-Bernabe, Second Division]. (Citations omitted)

<sup>52</sup> *Rollo*, pp. 145-146.

<sup>53</sup> *People v. Sanchez*, 590 Phil. 214, 238 (2008) [Per J. Brion, Second Division].

<sup>54</sup> *People v. Uhungen*, 836 Phil. 888, 902 (2018) [Per J. Martires, Third Division].

<sup>55</sup> *Supra* note 35, at 384. (Citation omitted)

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**FOR THESE REASONS**, the petition is **GRANTED**. The Decision dated July 24, 2019 and Resolution dated November 27, 2019 of the Court of Appeals in CA-G.R. CR No. 41688 which affirmed the Decision dated April 3, 2018 rendered by the Regional Trial Court, Fourth Judicial Region, Branch 91, Santa Cruz, Laguna, in Criminal Case Nos. SC-13227 and SC-13228, finding petitioner Allan Palomata y Dela Cruz guilty beyond reasonable doubt of violation of Sections 11 and 12, Article II of Republic Act No. 9165 are **REVERSED and SET ASIDE**.

Petitioner Allan Palomata y Dela Cruz is **ACQUITTED** and is immediately ordered **RELEASED** from detention unless he is being lawfully held for some other legal ground.

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

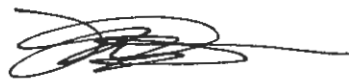
Let an entry of final judgment be issued immediately.

**SO ORDERED.**" (*Kho, J.* on leave)

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court

17 FEB 2023

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OFFICE OF THE SOLICITOR GENERAL (reg)  
134 Amorsolo Street  
1229 Legaspi Village  
Makati City

ALLAN PALOMATA y DELA CRUZ (x)  
Petitioner  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (x)  
Bureau of Corrections  
1770 Muntinlupa City

THE SUPERINTENDENT (x)  
New Bilibid Prison  
Muntinlupa City

THE DIRECTOR GENERAL (reg)  
Philippine Drug Enforcement Agency  
National Government Center  
NIA Northside Road Brgy. Pinyahan  
Quezon City

CHIEF (reg)  
Philippine National Police  
National Headquarters  
Camp Crame, Quezon City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 91  
Santa Cruz, Laguna  
(Crim. Case Nos. SC-13227 & SC-13228)

JUDGMENT DIVISION (x)  
Supreme Court, Manila

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CA-G.R. CR No. 41688

*Please notify the Court of any change in your address.*  
GR250662. 08/01/2022(281)URES(a)

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