



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated February 22, 2023 which reads as follows:*

“G.R. No. 252600 (*People of the Philippines, plaintiff-appellee vs. Jojie Compañero y Rufo, accused-appellant*). — This is an Appeal<sup>1</sup> seeking to reverse and set aside the December 2, 2019 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11275, whereby the CA affirmed the May 8, 2018 Joint Decision<sup>3</sup> of the Regional Trial Court of Bangui, Ilocos Norte, Branch 19 (RTC), finding Jojie Compañero y Rufo (*accused-appellant*) guilty of selling and possessing illegal drugs in Criminal Case Nos. 2307-19 and 2308-19, respectively.

*The Antecedents*

Accused-appellant was charged of violating Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165,<sup>4</sup> otherwise known as the *Comprehensive Drugs Act of 2002*, the corresponding Informations of which read:

[Criminal Case No. 2307-19]

That on or about 9:00 o'clock in the evening of October 12, 2015 at Barangay San Lorenzo, municipality of Bangui, province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, feloniously[,] and knowingly, sell one (1) small heat-sealed plastic sachet containing 0.1483 gram of methamphetamine hydrochloride, commonly known as “shabu”, a dangerous drug, in the amount of Five Hundred Pesos (Php 500.00) to the

<sup>1</sup> *Rollo*, pp. 15-16.

<sup>2</sup> *Id.* at 3-14; penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Fernanda Lampas Peralta and Ronaldo Roberto B. Martin.

<sup>3</sup> *CA rollo*, pp. 64-91; penned by Judge Conrado R. Ragucos.

<sup>4</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, and took effect on June 22, 2002.

poseur-buyer, without any authority or license from the appropriate government agency to do so.

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

[Criminal Case No. 2308-19]

That on or about 9:00 o'clock in the evening of October 12, 2015 at Barangay San Lorenzo, municipality of Bangui, province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, feloniously[,] and knowingly, possess two (2) heat-sealed transparent plastic sachet[s], containing 0.1227 gram and 0.0199 gram, respectively of methamphetamine hydrochloride, commonly known as "shabu", a dangerous drug, without the necessary license or authority from the appropriate government agency or authority to do so.

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

When arraigned, accused-appellant pleaded not guilty to the charges. During the pre-trial conference, the parties agreed on the following stipulation of facts: 1) at 9:00 p.m. of October 12, 2015, accused-appellant was at Barangay San Lorenzo, Bangui, Ilocos Norte where he resides; and 2) he was arrested by police officers on the same date without a warrant.<sup>7</sup>

After pre-trial was terminated, trial on the merits ensued.

The prosecution presented the following witnesses: 1) Police Officer 1 Mark Anthony Cabalce (*PO1 Cabalce*); 2) Police Officer 1 Nasser Agrade (*PO1 Agrade*); and Barangay Kagawad Rodrigo Tubera (*BK Tubera*).<sup>8</sup> In the course of the trial, the parties stipulated and dispensed with the testimonies of the following prosecution witnesses: 1) Police Senior Inspector Amiely Ann Navarro (*PSI Navarro*);<sup>9</sup> 2) Police Senior Inspector Crispin Simon, Jr. (*PSI Simon*);<sup>10</sup> 3) Police Officer 1 Julius Surell (*PO1 Surell*);<sup>11</sup> and 4) Senior Police Officer 4 Nilo Domingo (*SPO4 Domingo*).<sup>12</sup>

The testimonies of the prosecution witnesses collectively recounted the following events:

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<sup>5</sup> *CA rollo*, p. 65.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 65-66.

<sup>8</sup> Elected local official of Barangay San Lorenzo, Bangui, Ilocos Norte.

<sup>9</sup> Forensic Chemist.

<sup>10</sup> Officer-in-Charge of the Philippine National Police (PNP) Bangui, Ilocos Norte.

<sup>11</sup> Receiving Clerk of the PNP Crime Laboratory Office (CLO).

<sup>12</sup> PNP CLO Evidence Custodian.

At 8:00 p.m.<sup>13</sup> on October 12, 2015, PSI Simon received an information from a confidential informant about the illegal drug activities of accused-appellant. PSI Simon immediately formed a buy-bust team composed of PO1 Cabalce, PO1 Agrade, PO1 Jay Gummalaoui (*PO1 Gummalaoui*), and two other police officers. PO1 Cabalce was designated as the poseur buyer, and a ₱500.00-bill was prepared as marked money. The briefing and the operation were entered in the police blotter and was coordinated with the Philippine Drug Enforcement Agency (*PDEA*). Accused-appellant confirmed with PO1 Cabalce that the transaction will be at 9:00 p.m. of the same date at Purok Sinamar, Barangay San Lorenzo, Bangui, Ilocos Norte, specifically in front of the Sto. Domingo Cooperative Bank.<sup>14</sup>

The immediate back up of the buy-bust team went to Barangay San Lorenzo ahead of the scheduled meeting and strategically concealed themselves within the vicinity of the target area, while PO1 Cabalce and two other officers, arrived on schedule. Upon alighting from the vehicle, PO1 Cabalce sent a text message to accused-appellant asking for his location. In turn, accused-appellant replied, "*I'm on my way.*" Accused-appellant arrived after a few minutes. PO1 Cabalce handed the marked money to accused-appellant, who then placed the marked money in his pocket. Afterwards, accused-appellant handed to PO1 Cabalce a plastic sachet containing white crystalline substance. Thereafter, PO1 Cabalce introduced himself as a police officer and raised his left hand, which prompted the buy-bust team to rush to the target area to assist in arresting accused-appellant.<sup>15</sup>

After the arrest, the buy-bust team called BK Tubera to witness the body search on accused-appellant. The team was able to recover two small plastic sachets containing white crystalline substance from accused-appellant's right pocket which were hidden inside a Fortune Light cigarette pack, as well as the marked money. Since it was already late and raining, the team decided to conduct the marking and inventory of the seized items at the police station. PO1 Cabalce remained in possession of the confiscated items during transit.<sup>16</sup>

At the police station, PO1 Cabalce marked and inventoried the seized items in the presence of BK Tubera, BK Paulino Trinidad (*BK Trinidad*) and BK Patricia Agullana (*BK Agullana*). Photographs of the entire procedure were also taken. PO1 Cabalce prepared the request for laboratory examination and brought the seized items to the Philippine National Police (*PNP*) Crime Laboratory Office (*CLO*) on the following day (October 13, 2015), which

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<sup>13</sup> Records, p. 4.

<sup>14</sup> *CA rollo*, p. 67.

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

<sup>16</sup> *Id.* at 67-68.

were received by PO1 Surell at 8:50 a.m.<sup>17</sup> Thereafter, PO1 Surell handed the items over to PSI Navarro for chemical examination.<sup>18</sup> The seized items tested positive for methamphetamine hydrochloride, which finding was reflected on Chemistry Report No. D-245-2015-IN prepared by PSI Navarro.<sup>19</sup> After the examination, PSI Navarro turned over the confiscated items to SPO4 Domingo for safekeeping. At 8:00 a.m. on February 18, 2016, PSI Navarro retrieved the subject items from SPO4 Domingo<sup>20</sup> and submitted the same to the RTC.<sup>21</sup>

On the other hand, accused-appellant denied the charges and claimed that he was framed-up by the police. He narrated that at 9:00 p.m. on October 12, 2015, he was walking along the National Highway in San Lorenzo, Bangui, Ilocos Norte on his way home. When he heard someone shouted, “*Hoy!*,” he stopped to look for where it came from, and when he did not see anybody, he continued walking. However, he immediately heard somebody shout, “*Do not run, I am going to shoot you.*” Instinctively, he ran and stopped at a streetlight. When he looked back, he saw PO1 Agrade holding a gun and running towards him. PO1 Agrade then poked the gun at his head, while another police officer arrived to handcuff him. Accused-appellant alleged that the other police officer put something in his right pocket. BK Tubera arrived later and reached for the item in his pocket while photographs were being taken. Since it was raining, they boarded a police car and went to the police station.<sup>22</sup>

### ***Ruling of the RTC***

In its May 8, 2018 Joint Decision, the RTC found accused-appellant guilty as charged. The *fallo* reads:

WHEREFORE, in view of the foregoing considerations, the court finds accused JOJIE R. COMPAÑERO in *Criminal Case No. 2307-19* for Violation of Section 5, 1st paragraph, Article II of Republic Act No. 9165, x x x, **GUILTY** beyond reasonable doubt. Hence, accused Jojie R. Compañero is hereby sentenced to suffer LIFE IMPRISONMENT and ordered to pay a fine of x x x (Php500,000.00).

Moreover, accused JOJIE R. COMPAÑERO is also found **GUILTY** beyond reasonable doubt in *Criminal Case No. 2308-19* for Violation of Section 11, 2nd paragraph, No. 3, Article II of Republic Act No. 9165, x x x. And since the quantity of methamphetamine hydrochloride (*shabu*) found in the possession of the accused is only 0.1227 gram and 0.0199, accused

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<sup>17</sup> Records, p. 15.

<sup>18</sup> CA *rollo*, p. 70.

<sup>19</sup> Id. at 68.

<sup>20</sup> Id. at 70.

<sup>21</sup> Records, p. 31.

<sup>22</sup> *Rollo*, pp. 6-7.

JOJIE R. COMPAÑERO is hereby sentenced to suffer imprisonment ranging from TWELVE (12) YEARS and ONE (1) DAY as minimum to FOURTEEN (14) YEARS and TWENTY[-]ONE (21) DAYS as maximum. Accused Jojie R. Compañero is further penalized to pay a fine in the amount of x x x (Php300,000.00).

x x x x

SO ORDERED.<sup>23</sup>

The RTC held that the prosecution was able to establish that accused-appellant not only peddled illicit drugs to PO1 Cabalce during a legitimate buy-bust operation, but was also caught in possession of two sachets of *shabu* when searched.<sup>24</sup> It accorded weight on the testimony of the prosecution witnesses due to the absence of any ill motive on the part of the police officers to falsely charge accused-appellant of the crimes. It also noted that accused-appellant failed to present corroborating evidence to prove his allegation of frame-up.<sup>25</sup>

The RTC also ruled that despite the failure of the police officers to strictly observe the requirements of Section 21, Article II of R.A. No. 9165, the totality of the prosecution's evidence clearly established that the chain of custody of the *corpus delicti* remained unbroken.<sup>26</sup>

Accused-appellant appealed to the CA. He argued that the RTC erred in upholding the presumption of regularity in the performance of duties of the police officers given the glaring unjustified procedural errors in the handling of the seized items, viz.: 1) the marking and inventory were conducted at the police station; 2) the actual markings placed by PO1 Cabalce on the seized items were non-compliant with the PNP Manual on Anti-Illegal Drugs Operations and Investigation (*PNP Manual*) for not indicating the date, time, and place of the alleged seizure of the subject narcotics; and 3) there was no representative from the media or National Prosecution Service (*NPS*) during the marking and inventory.<sup>27</sup>

Further, accused-appellant contended that there were no details on how PO1 Cabalce handled the seized items during transit from the place of arrest to the police station. He pointed out that the stipulated testimonies of PO1 Surell, SPO4 Domingo, and PSI Navarro lacked details regarding the actual condition of the drugs when they were received by the PNP CLO, and the

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<sup>23</sup> CA rollo, pp. 90-91.

<sup>24</sup> Id. at 88.

<sup>25</sup> Id. at 88-89.

<sup>26</sup> Id. at 84-88.

<sup>27</sup> Id. at 57-58.

measures taken to ensure the preservation of their integrity during storage.<sup>28</sup> Accused-appellant maintained that these circumstances would warrant his acquittal from both charges.<sup>29</sup>

The People, through the Office of the Solicitor General, countered that accused-appellant's arrest resulted from a legitimate buy-bust operation. The evidence of the prosecution sufficiently demonstrated the links in the chain of custody thereby ensuring the preservation of the integrity of the seized items. It claimed that Section 21 allows the marking of the seized items at the nearest police station and that there is "no law or jurisprudence which mandates that all the mentioned individuals in Section 21 must witness and sign the inventory report before it may be appreciated."<sup>30</sup> The People asserted that the court can "appreciate the *corpus delicti* if there was substantial compliance with the rule" given that the law permits noncompliance as long as the integrity and evidentiary value of the seized evidence are preserved. Finally, it stressed that accused-appellant bears the burden of proving that the evidence was tampered with in order to overcome the presumption of regularity in the handling of the seized items by the police officers.<sup>31</sup>

### *Ruling of the CA*

In its December 2, 2019 Decision, the CA upheld the May 8, 2018 Joint Decision of the RTC. Like the RTC, it also found that the prosecution was able to establish the elements of Illegal Sale and Illegal Possession of Dangerous Drugs. It observed that the failure of the police officers to strictly comply with Section 21 was "not fatal," because the records showed that the chain of custody of the seized drugs remained unbroken from the time that they were lawfully seized and came into the possession of the apprehending officers, up to the time they were presented in court.<sup>32</sup>

In ruling that the apprehending officers substantially complied with the requirement of insulating witnesses under Section 21, the CA noted that it was nighttime and raining and that the marking and inventory were witnessed by three local elected officials.<sup>33</sup> It concluded that the "explainable deviations to the chain of custody rule" were not sufficient reasons to overturn the findings of the RTC which were supported by "overwhelming evidence" from the prosecution.<sup>34</sup>

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<sup>28</sup> Id. at 58-59.

<sup>29</sup> Id. at 60.

<sup>30</sup> Id. at 105-111.

<sup>31</sup> Id. at 111-115.

<sup>32</sup> *Rollo*, pp. 9-11.

<sup>33</sup> Id. at 12.

<sup>34</sup> Id. at 13.



Hence, this appeal.

The Court notified the parties of their option to file their respective supplementary briefs.<sup>35</sup> However, both parties manifested their adoption of the arguments they proffered on their respective briefs filed before the CA.<sup>36</sup>

### **Ruling of the Court**

The appeal has merit.

It is axiomatic that an appeal in criminal cases confers upon the court full jurisdiction and renders it competent to examine the record and revise the judgment appealed from. Accordingly, errors in an appealed judgment of a criminal case, even if not specifically assigned, may be corrected *motu proprio* by the court if the consideration of these errors is necessary to arrive at a just resolution of the case. The rationale behind this rule stems from the recognition that an accused waives the constitutional safeguard against double jeopardy once he appeals from the sentence of the trial court. As such, it is incumbent upon the appellate court to render such judgment as law and justice dictate, whether it be favorable or unfavorable to him.<sup>37</sup>

*The prosecution must be able to account for each link of the chain of custody in order to establish the corpus delicti*

To secure a conviction for Illegal Sale of Dangerous Drugs under Section 5, Article II of R.A. No. 9165, the prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object of the sale, and its consideration; and (2) the delivery of the thing sold and the payment therefor. What is important is that the sale transaction of drugs actually took place and that the object of the transaction is properly presented as evidence in court and is shown to be the same drugs seized from the appellant.<sup>38</sup>

On the other hand, the elements of illegal possession of dangerous drugs are: 1) the accused was in possession of an item or object identified as a

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<sup>35</sup> Id. at 20-21.

<sup>36</sup> Id at 25-29; 40-43.

<sup>37</sup> *People v. Miranda*, 824 Phil. 1042, 1050 (2018).

<sup>38</sup> *People v. Sanchez*, 839 Phil. 960, 967-968 (2018); see also *People v. Alvarado*, 830 Phil. 785, 797 (2018).

prohibited drug; 2) such possession was not authorized by law; and 3) the accused freely and consciously possessed the said drug.<sup>39</sup>

In both illegal sale and illegal possession of dangerous drugs, it is essential that the identity of the prohibited drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.<sup>40</sup> To remove any doubt or uncertainty on the identity and integrity of the seized drug, it must be shown that the substance illegally possessed or sold by the accused is the same substance offered and identified in court. This requirement is known as the chain of custody rule under R.A. No. 9165,<sup>41</sup> which refers to the “duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.”<sup>42</sup>

The chain of custody rule is created to safeguard doubts concerning the identity of the seized drugs.<sup>43</sup> The necessity of establishing the identity of the dangerous drug arises from the illegal drug’s unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.<sup>44</sup> As such, 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.<sup>45</sup>

Chain of custody is established through the following links: *first*, the seizure and marking 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 seized from the forensic chemist to the court.<sup>46</sup>

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<sup>39</sup> *People v. Ramos*, G.R. No. 243944, March 15, 2021.

<sup>40</sup> *People v. Salenga*, G.R. No. 239903, September 11, 2019, 919 SCRA 342, 352.

<sup>41</sup> *People v. Del Rosario*, G.R. No. 235658, June 22, 2020, 939 SCRA 171, 183.

<sup>42</sup> Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002, as cited in *People v. Dahil*, 750 Phil. 212, 226 (2015).

<sup>43</sup> *People v. Del Rosario*, supra at 183.

<sup>44</sup> See *Tumabini v. People*, G.R. No. 224495, February 19, 2020, 933 SCRA 60, 80.

<sup>45</sup> *Pinga v. People*, G.R. No. 245368, June 21, 2021.

<sup>46</sup> *People v. dela Torre*, G.R. No. 225789, July 29, 2019, 911 SCRA 128, 139.



On the other hand, the procedure for the preservation of the seized drugs is set forth in Section 21,<sup>47</sup> Article II of R.A. No. 9165, and is further outlined in the Implementing Rules and Regulations (*IRR*).<sup>48</sup> Section 21 requires that any person who came in contact with the seized drug must observe the procedure for its proper handling in order to remove any doubt that it was changed, altered, substituted, or modified before its presentation in court. The chain of evidence is constructed by proper exhibit handling, storage, labeling, and recording, and must exist from the time the evidence is found until the time it is offered in evidence.<sup>49</sup>

Section 21 was later amended by R.A. No. 10640<sup>50</sup> which now reads:

*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

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<sup>47</sup> *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 (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]

<sup>48</sup> Section 21 of the *IRR* of R.A. No. 9165 provides: “(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>49</sup> *People v. Cupcupin*, G.R. No. 236454, December 5, 2019.

<sup>50</sup> 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.” Effective on August 7, 2014.

seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons 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.

The Guidelines on the Implementing Rules and Regulations of Section 21 of R.A. No. 9165, as amended by R.A. No. 10640 (*IRR Guidelines*), expounded on this requirement, thus:

Section 1. *Implementing Guidelines*. — 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. Marking, Inventory and Photograph; Chain of Custody  
Implementing Paragraph "a" of the IRR*

A.1. The apprehending or seizing officer having initial custody and control of the seized or confiscated dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, mark, inventory and photograph the same in the following manner:  
x x x x

A.1.3. In warrantless seizures, the marking of the seized items in the presence of the violator shall be done immediately at the place where the drugs were seized or at the nearest police station or nearest office of the apprehending officer/team, whichever is practicable. The physical inventory and photograph shall be conducted in the same nearest police station

or nearest office of the apprehending officer/team, whichever is practicable.

x x x x

A.1.5. The physical inventory and photograph of the seized/confiscated items **shall be done in the presence of the suspect or his representative or counsel, with elected public official and a representative of the National Prosecution Service (NPS) or the media, who shall be required to sign the copies of the inventory of the seized or confiscated items and be given copy thereof.** In case of their refusal to sign, it shall be stated “refused to sign” above their names in the certificate of inventory of the apprehending or seizing officer. (Emphasis supplied.)

Prior to the amendment of Section 21, the marking, physical inventory, and photograph of the seized items immediately after seizure, should be done in the presence of the accused or his/her representative or counsel, an elected public official, a representative of the Department of Justice (*DOJ*), and a representative of the media.<sup>51</sup>

Recognizing that “compliance with the rule on witnesses during the physical inventory is difficult,”<sup>52</sup> Congress introduced amendments to Section 21. Through R.A. No. 10640, Section 21 now requires an elected public official *and* a representative of the NPS *or* the media to witness the physical inventory, and photographing of the seized items at the place where the drugs were seized or at the nearest police station or nearest office of the apprehending officer/team.

The law, in exceptional cases, allows noncompliance with the rules where the following requisites are 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. In these exceptional cases, the seizures and custody over the confiscated items shall not be rendered void and invalid.<sup>53</sup>

Additionally, the justifiable ground for noncompliance must be proven as a fact because the Court cannot presume what these grounds are or that they even exist.<sup>54</sup> The arresting officers are under obligation, should they be

<sup>51</sup> See *People v. Retada*, G.R. No. 239331, July 10, 2019, 909 SCRA 1, 12.

<sup>52</sup> Senator Grace Poe during her Sponsorship Speech on Senate Bill No. 2273 which eventually became R.A. No. 10640. See *People v. Lim*, 839 Phil. 598, 639-640 (2018).

<sup>53</sup> *People v. Abdulwahab*, G.R. No. 242165, September 11, 2019, 919 SCRA 376, 385.

<sup>54</sup> *People v. Patacsil*, 838 Phil. 320, 332-333 (2018).

unable to comply with the procedures laid down under Section 21, to explain why the procedure was not followed and to prove that the reason provided a justifiable ground. Otherwise, the requisites under the law would merely be fancy ornaments that may or may not be disregarded by the arresting officers at their own convenience.<sup>55</sup>

As such, the noncompliance to the chain of custody rule cannot be remedied by simply invoking the presumption of regularity in the performance of official duties, because a gross, systematic, or deliberate disregard of the procedural safeguards effectively produces an irregularity in the performance of official duties. As a result of such unjustified irregularity, the prosecution is deemed to have failed to fully establish the elements of the crimes charged, creating reasonable doubt on the criminal liability of the accused.<sup>56</sup>

Based on these guidelines, the Court finds that the prosecution failed to prove that the chain of custody of the seized items remained intact.

*The prosecution failed to establish the first, second, and fourth links*

According to the CA, the following demonstrated the unbroken chain of custody over the items allegedly seized from accused-appellant:

[T]he first link, which is seizure and marking, started when PO1 Cabalce seized the illegal drugs which he kept in his possession, from time of seizure, until arrival at the police station. Upon arrival at the police station, PO1 Cabalce marked the seized items with MC1, MC2, and MC3, representing his initials. PO1 Cabalce explained that the marking has to be done at the police station instead of the place of arrest because it was night time and raining hard.

Second, the turnover of the illegal drugs by PO1 Cabalce to PO1 Surell, Investigating Officer.

The third link was the turn over by PO1 Surell of the illegal drugs to the Forensic Chemist, PSI Amielly Ann Navarro. After performing her examination on the seized items, PSI Navarro handed the illegal drugs to SPO4 Domingo for safekeeping. On February 18, 2016, 8 o'clock in the morning, SPO4 Domingo turned over the seized items to PSI Navarro.

Lastly, PSI Navarro took the seized items to the trial court for presentation and submission. She positively identified the same as the plastic sachets that she received for examination. x x x<sup>57</sup>

<sup>55</sup> *Valencia v. People*, 725 Phil. 268, 286 (2014).

<sup>56</sup> *Veriño v. People*, 905 Phil. 290, 304 (2019), citing *People v. Umipang*, 686 Phil. 1024, 1054 (2012).

<sup>57</sup> *Rollo*, p. 10.

The CA ruled that the presence of three elected local officials during the inventory of the seized items substantially complied with the rules and its perceived “unbroken chain of custody” over the seized items are more than sufficient evidence to uphold the conviction of accused-appellant.

The Court sees otherwise.

It must be emphasized that since the offense charged against accused-appellant was allegedly committed on October 12, 2015, Section 21 of R.A. No. 9165, as amended by R.A. No. 10640 shall apply in this case.<sup>58</sup> Hence, the lack of sufficient explanation by the apprehending officers on their failure to faithfully comply with the chain of custody rule marred the integrity and evidentiary value of the alleged seized items. The unjustified deviations from the prescribed rules on chain of custody, as well as patent gaps in the chain, put into question the integrity and evidentiary value of the dangerous drugs purportedly seized from accused-appellant.

*A. First link: Defect in the seizure and marking of the seized items*

“Marking” means the placing by the apprehending officer or the poseur-buyer of his/her initials and signature on the seized item. The marking of the evidence serves to separate the marked evidence from the *corpus* of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, thus, preventing switching, planting or contamination of evidence.<sup>59</sup> It is the most crucial stage in the chain of custody of the seized drugs as it will be the reference for all its succeeding handlers.<sup>60</sup>

The 2014 Revised PNP Manual<sup>61</sup> specifies that the seizing officer must mark the evidence with his initials indicating therein the date, time, and place where the evidence was recovered or seized.<sup>62</sup> Without the details as to the date, time, and place where the evidence was found/recovered, there is no way to differentiate the items similarly marked seized from different offenders with the same initials.<sup>63</sup>

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<sup>58</sup> See *People v. Ambrosio*, G.R. No. 234051, November 27, 2019, 926 SCRA 190, 199-200.

<sup>59</sup> *People v. Omamos*, G.R. No. 223036, July 10, 2019, 908 SCRA 367, 379.

<sup>60</sup> See *People v. Abdulah*, G.R. No. 243941, March 11, 2020, 935 SCRA 665, 676-677, citing *People v. Gonzales*, 708 Phil. 121, 131 (2013).

<sup>61</sup> PNP Manual PNPM-D-0-2-14 (DO).

<sup>62</sup> PNP Manual, Section 2-6 (2.35).

<sup>63</sup> *People v. Diaz*, G.R. No. 232296, March 18, 2021.

Based on records, PO1 Cabalce marked the seized items with “MC1,” “MC2,” and “MC3.”<sup>64</sup> These markings are patently non-compliant with the PNP Manual and irregularly done.<sup>65</sup> In addition, there appears to be no Chain of Custody Form that should have kept track of the authorized movements of the seized items.

Considering that irregularities were already attendant at the point of marking, which made possible the planting, switching, or contamination of the seized items, proving the chain after such point would merely prove the chain of custody of planted drugs.<sup>66</sup>

Moreover, it is undisputed that the marking, inventory, and photographing of the seized items, consisting of three sachets of shabu weighing 0.1483g, 0.1227g, and 0.0199g, respectively, were conducted at the police station and purportedly witnessed only by elected officials, namely, BK Tubera, BK Trinidad, and BK Agullana. Conspicuously, the records are bereft of any indication that the absence of a representative from the media or NPS was addressed by the prosecution. There is likewise no information on whether the police officers exerted efforts to secure the attendance of these insulating witnesses.

As explained earlier, any lapse in compliance must be recognized and justified by the prosecution.<sup>67</sup> In *Matabilas v. People*,<sup>68</sup> the Court reiterated that it is incumbent upon the prosecution to account for the absence of a required witness by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure his/her presence. In *People v. Refe*,<sup>69</sup> the Court also rejected as compliance to the witness requirement the presence of three barangay officials during the inventory and photographing of the seized items. It was explained that this only complied with the required presence of an elective official as witness.

The Court cannot stress enough that the presence of the required witnesses at the time of the inventory and photographing of the seized evidence is *mandatory*, and that the law imposes the said requirement because their presence serves an essential purpose,<sup>70</sup> which is primarily “to ensure the

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<sup>64</sup> Records, p. 11; see also TSN, April 28, 2016, p. 18.

<sup>65</sup> See *People v. Cardenas*, G.R. No. 229046, September 11, 2019, 919 SCRA 226, 252.

<sup>66</sup> *People v. Salenga*, supra note 40, at 361, citing *People v. Adobar*, 832 Phil. 731, 758 (2018).

<sup>67</sup> See *People v. Sarabia*, G.R. No. 243190, August 28, 2019, 916 SCRA 377, 404.

<sup>68</sup> G.R. No. 243615, November 11, 2019, 925 SCRA 336, 352.

<sup>69</sup> G.R. No. 233697, July 10, 2019, 908 SCRA 559, 578.

<sup>70</sup> *People v. Rasos, Jr.*, G.R. No. 243639, September 18, 2019, 920 SCRA 420, 437.

establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”<sup>71</sup>

Similar in *Matabilas*, the absence of the representative of the media or NPS during the inventory and photographing of the seized drugs was not acknowledged by the prosecution, much less justified. This unwarranted deviation from the chain of custody rule inevitably leaves the impression that the integrity and evidentiary value of the item purportedly seized from accused-appellant was compromised, which consequently warrants his acquittal.<sup>72</sup>

Clearly, the condition *sine qua non* for the saving clause to become operational was not complied with. For the same reason, the proviso “so long as the integrity and evidentiary value of the seized items are properly preserved,” too, will not come into play. In the absence of any acceptable explanation for the deviation from the procedural requirements of the chain of custody rule, the *corpus delicti* cannot be deemed preserved.<sup>73</sup> Any doubt as to the identity of the *corpus delicti* is fatal to the prosecution’s case and warrants acquittal.

*B. Second and Third links: Gaps in the turn over of the seized items from the apprehending officer, to the investigating officer, to the forensic chemist*

In the second link, 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. To be able to do so, the investigating officer must have possession of the illegal drugs for the preparation of the required documents.<sup>74</sup> Thus, the investigating officer’s possession of the seized drugs must be documented and established.<sup>75</sup>

As pointed out earlier, there was no Chain of Custody Form in the exhibits of the prosecution. The prosecution claimed that PO1 Cabalce was in possession of the seized items from the point of arrest until its turn over to PO1 Surell, the receiving clerk of the PNP CLO. Records, however, reveal that the case investigator is one PO3 Bjay Calivoso (PO3 Calivoso). This is reflected in the Blotter Extract<sup>76</sup> and Request for Laboratory Examination.<sup>77</sup> It

<sup>71</sup> *People v. Gabunada*, G.R. No. 242827, September 9, 2019, 918 SCRA 254, 263.

<sup>72</sup> *Matabilas v. People*, supra.

<sup>73</sup> *People v. Caray*, G.R. No. 245391, September 11, 2019, 919 SCRA 389, 400.

<sup>74</sup> *People v. Ilagan*, G.R. No. 244295, November 9, 2020.

<sup>75</sup> *People v. Del Rosario*, supra note 41, at 188.

<sup>76</sup> Records, p. 10.

behooves the Court to question how PO3 Calivoso could have properly performed an investigation without having the corpus delicti on hand. As a result of PO1 Cabalce's failure to turn over the seized items to PO3 Calivoso, the second link and third link in the chain of custody is plainly non-existent. This certainly casts doubts on the integrity of the seized items.<sup>78</sup>

*C. Fourth link: Testimonies of the forensic chemist and evidence custodian failed to establish that the integrity and evidentiary value of the seized article was secured*

The Court has consistently ruled that in case of a stipulation by the parties to dispense with the attendance and testimony of the forensic chemist, it should be stipulated that the forensic chemist would have testified that precautionary steps were taken to preserve the integrity and evidentiary value of the seized item. The stipulation must thus include statements 1) that the forensic chemist received the seized article as marked, properly sealed, and intact; 2) that the evidence was resealed after examination of the content; and 3) that the forensic chemist marked the same to ensure that it could not be tampered pending trial.<sup>79</sup>

Records show that the parties agreed to stipulate on the following matters regarding PSI Navarro's testimony:

x x x The gist and tenor of her testimony is as follows: that she will identify and affirm the truthfulness and veracity of the Chemistry Report No. D-245-2015 IN which personally marked Exhibit "I["]; that she will identify the entries in the logbook of the PNP Crime Laboratory previously marked as Exhibit "I-1" to the effect that on October 13, 2015 at about 8:50 a.m. the subject items were received by PO1 Julius Surell of the PNP Crime Laboratory from PO1 Mark Anthony Cabalce of the PNP Bangui; that she conducted the examination and the said examination reveals that the three (3) items were all positive for methamphetamine hydrochloride and after the said examination the said items were again submitted to SPO4 Nilo Domingo for safe keeping and that today at about 8:00 o'clock a.m., she retrieved the same from SPO4 Nilo Domingo for their presentation in court; that she will also identify the items which she subjected for chemical examination, marked as Exhibit "K" for the illegal sale, Exhibit "K-1" and "K-2" for the illegal possession case. The defense admitted the said proffered testimony subject to the qualification that said witness had no personal knowledge as regards the specific source of the items. x x x<sup>80</sup>

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<sup>77</sup> Id. at 15.

<sup>78</sup> See *People v. Ilagan*, supra.

<sup>79</sup> *People v. Ubungen*, 836 Phil. 888, 901 (2018), citing *People v. Pajarin*, 654 Phil. 461, 466 (2011).

<sup>80</sup> Records, p. 36; Joint Order dated February 18, 2016.



For SPO4 Domingo's testimony, the parties stipulated on the following:

The parties also entered into stipulations of facts as regards the testimony of SPO4 Nilo Domingo to the effect: that SPO4 Nilo Domingo is also assigned at the PNP crime laboratory as the evidence custodian; that on October 13, 2015 at about 1:10 p.m., he received from PSI Amiely Ann Navarro a Letter Request, three (3) specimen and the Final Chemistry Report on the same day; that all these items including the Letter Request as well as the Final Chemistry Report were retrieved from him by PSI Navarro on February 18, 2016 at about 8:00 in the morning for their presentation and submission to the court. This proffered testimony was again admitted by the defense with the sole qualification that SPO4 Nilo Domingo had no knowledge regarding the actual source of the three (3) subject specimen.<sup>81</sup>

Evidently, the stipulations on the testimonies of PSI Navarro and SPO4 Domingo are devoid of any information regarding the measures they took to ensure the preservation of the integrity and evidentiary value of the seized items. The stipulations on SPO4 Domingo's testimony merely focused on how he received the seized items from, and its retrieval by, PSI Navarro. Nothing was stipulated on how he safeguarded the items from the time he received the same until he turned them over to the trial court for presentation as evidence.<sup>82</sup>

Absent any testimony regarding the management, storage, and preservation of the illegal drug allegedly seized herein after its qualitative examination, the fourth link in the chain of custody of the said illegal drug could not be reasonably established.<sup>83</sup>

It cannot be stressed enough that the burden of proving the guilt of the appellant lies on the strength of the prosecution's evidence. Even if the Court presume that our law enforcers performed their assigned duties beyond reproach, we cannot allow the presumption of regularity in the performance of police duty to overthrow the presumption of innocence of the accused in the absence of proof beyond reasonable doubt.<sup>84</sup> The presumption of regularity in the performance of their official duties only applies when nothing in the evidence shows that the police officers deviated from the standard procedures required by law.<sup>85</sup>

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<sup>81</sup> Id. at 47; Order dated May 26, 2016.

<sup>82</sup> See *People v. Gonzales*, G.R. No. 252327, June 28, 2021, citing *People v. Posos*, G.R. No. 226492, October 2, 2019, 921 SCRA 286, 308.

<sup>83</sup> *People v. Ubungen*, supra, at 902.

<sup>84</sup> *People v. Orcullo*, G.R. No. 229675, July 8, 2019, 908 SCRA 1, 21.

<sup>85</sup> *People v. Comoso*, G.R. No. 227497, April 10, 2019, 901 SCRA 387, 405.

All told, the failure of the prosecution to justify non-compliance with the chain of custody rule is tantamount to failure in establishing the identity of *corpus delicti*, an essential element of the offenses of illegal sale and illegal possession of dangerous drugs, thus, engendering the acquittal of accused-appellant.<sup>86</sup>

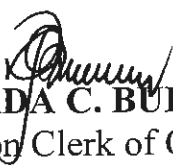
**WHEREFORE**, the appeal is **GRANTED**. The December 2, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11275 affirming the May 8, 2018 Joint Decision of the Regional Trial Court of Bangui, Ilocos Norte, Branch 19 is **REVERSED** and **SET ASIDE**. Accused-appellant Jojie Compañero y Rufo is **ACQUITTED** of the charges of illegal sale and illegal possession of dangerous drugs in Criminal Case Nos. 2307-19 and 2308-19, respectively, for failure of the prosecution to prove his guilt beyond reasonable doubt.

Let Entry of Judgment be issued immediately.

The Director General of the Bureau of Corrections, Muntinlupa City is **ORDERED** to implement this Resolution unless Jojie Compañero y Rufo is being lawfully held for any other reason, and to inform the Court of the date of his actual release from confinement within five (5) days from receipt hereof.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court  
4/21/6

by:

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

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MAR 07 2023

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 11275)

<sup>86</sup> See *People v. Salenga*, supra note 40, at 361.

The Hon. Presiding Judge  
Regional Trial Court, Branch 19  
Bangui, 2920 Ilocos Norte  
(Crim. Case Nos. 2307-19 & 2308-19)

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