



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated March 1, 2023 which reads as follows:

“G.R. No. 258325 (People of the Philippines v. Elizabeth Lobo y Regulacion and Mario Marcelino y Alejandro).—On appeal¹ is the July 17, 2020 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10855, which affirmed the May 29, 2017 Decision³ of the Regional Trial Court (RTC), Branch 72, Olongapo City, in Criminal Case No. 300-2015, finding accused-appellants Elizabeth Lobo y Regulacion (Beth) and Mario Marcelino y Alejandro (Mario) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” as amended, and in Criminal Case No. 301-2015, finding accused-appellant Beth guilty beyond reasonable doubt for violating Sec. 11, Art. II of the same Act.

Antecedents

Two separate Informations⁵ both dated May 7, 2015 were filed charging Beth and Mario with violation of Sec. 5, in relation to Sec. 26, Art. II of RA 9165 in Criminal Case No. 300-2015. In addition, Beth was charged with violation of Sec. 11, Art. II of the same Act in Criminal Case No. 301-2015. The accusatory portions read:

Criminal Case No. 300-2015 (Beth and Mario, violatin of Sec. 5):

That on or about the fifth (5th) day of May, 2015, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable court, the above-named accused, conspiring, confederating together and mutually helping

¹ *Rollo*, pp. 3-5.

² *Id.* at 8-30. Penned by Associate Justice Tita Marilyn B. Payoyo-Villordon and concurred in by Associate Justices Celia C. Librea-Leagogo and Nina G. Antonio-Valenzuela.

³ *Id.* at 35-56; penned by Presiding Judge Richard A. Paradeza.

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.” Approved: June 7, 2002.

⁵ Records, Criminal Case No. 300-2015, pp. 1-2; Criminal Case No. 301-2015, pp. 1-3.

with one another, without being lawfully authorized, did then and there willfully, unlawfully, and knowingly sell, deliver, distribute or transfer to PO1 Ardeeson G. Manansala Methamphetamine Hydrochloride, otherwise known as "Shabu", a dangerous drug, weighing Two Hundred Five Thousandths (0.205) of a gram placed in one (1) heat sealed transparent plastic sachet.

CONTRARY TO LAW.⁶

Criminal Case No. 301-2015 (Beth, violation of Sec. 11):

That on or about the fifth (5th) day of May 2015, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable court, the above-named accused, did then and there willfully, unlawfully and feloniously have in her effective possession and control twenty-eight (28) heat-sealed transparent plastic sachets containing Methamphetamine Hydrochloride of "Shabu", with the following markings and weight:

B1 (Exh "B" ALO RAL)	= 0.331 gram
B2 (Exh "B-1" ALO RAL)	= 0.172 gram
B3 (Exh "B-2" ALO RAL)	= 0.152 gram
B4 (Exh "B-3" ALO RAL)	= 0.218 gram
B5 (Exh "B-4" ALO RAL)	= 0.207 gram
B6 (Exh "B-5" ALO RAL)	= 0.146 gram
B7 (Exh "B-6 ALO RAL)	= 0.203 gram
B8 (Exh "B-7 ALO RAL)	= 0.204 gram
B9 (Exh "B-8" ALO RAL)	= 0.244 gram
B10 (Exh "B-9" ALO RAL)	= 0.211 gram
B11 (Exh "B-10" ALO RAL)	= 0.261 gram
B12 (Exh "B-11" ALO RAL)	= 0.199 gram
B13 (Exh "B-12" ALO RAL)	= 0.337 gram
B14 (Exh "B-13" ALO RAL)	= 0.133 gram
B15 (Exh "B-14" ALO RAL)	= 0.182 gram
B16 (Exh "B-15" ALO RAL)	= 0.265 gram
B17 (Exh "B-16" ALO RAL)	= 0.231 gram
B18 (Exh "B-17" ALO RAL)	= 0.302 gram
B19 (Exh "B-18" ALO RAL)	= 0.203 gram
B20 (Exh "B-19" ALO RAL)	= 0.177 gram
B21 (Exh "B-20" ALO RAL)	= 0.346 gram
B22 (Exh "B-21" ALO RAL)	= 0.306 gram
B23 (Exh "B-22" ALO RAL)	= 0.335 gram
B24 (Exh "B-23" ALO RAL)	= 0.173 gram
B25 (Exh "B-24" ALO RAL)	= 0.111 gram
B26 (Exh "B-25" ALO RAL)	= 0.408 gram
B27 (Exh "B-26" ALO RAL)	= 0.385 gram
B28 (Exh "B-27" ALO RAL)	= <u>0.185 gram</u>
TOTAL -----	6.627 grams

which are dangerous drugs, said accused not having the corresponding license or prescription to possess said dangerous drug.

CONTRARY TO LAW.⁷

⁶ Records, Criminal Case No. 300-2015, p. 1.

⁷ Records, Criminal Case No. 301-2015, pp. 1-2.

Upon arraignment, accused-appellants pleaded not guilty to the crimes charged against them.⁸ Trial on the merits thereafter ensued.

Version of the Prosecution

Police Officer 1 Anderson Manansala (PO1 Manansala) narrated that on May 5, 2015, a concerned citizen went to Olongapo City Anti-Illegal Drugs Special Operation Team (CAIDSOT) office to report the illegal drug trade of certain individuals, who were later identified as Beth and Mario.⁹ Upon learning such information, PO1 Manansala relayed the same to their team leader, Police Senior Inspector Mar Joseph Ravelo (PSI Ravelo).¹⁰ To verify the report, PO1 Manansala, together with a confidential informant (CI), conducted a surveillance on the reported individuals in Kalye Bulok along Lower Kalaklan, Olongapo City.¹¹ Upon arrival thereat, they saw locally known drug personalities frequenting the place of Beth and Mario.¹²

PO1 Manansala reported this finding to PSI Ravelo who immediately ordered his team to conduct a buy-bust operation.¹³ PSI Ravelo coordinated with the Philippine Drug Enforcement Agency (PDEA) regarding the drug operation and thereafter a briefing was conducted.¹⁴

During the briefing, PO1 Manansala was designated as the poseur-buyer with PO2 Arnie Lerma Omega (PO2 Omega) as immediate back-up officer.¹⁵ Other members of the team were in charge of area security.¹⁶ Before proceeding to the target area, PSI Ravelo handed over a ₱500.00 bill as buy-bust money to PO1 Manansala.¹⁷ Immediately thereafter, PO1 Manansala marked the bill with his initials.¹⁸

When PO1 Manansala and the confidential agent arrived at the target area, they waited for Mario's arrival.¹⁹ Subsequently, Mario arrived and approached them. He asked the CI if PO1 Manansala was the buyer, to which the CI responded in the affirmative.²⁰ Mario then invited PO1 Manansala and the CI to his house.²¹ PO1 Manansala and the CI followed Mario, but they stayed outside to wait for Beth.²²

⁸ Records, Criminal Case No. 300-2015, p. 57; Criminal Case No. 301-2015, p. 24.

⁹ TSN, September 4, 2015, pp. 4-5.

¹⁰ Id. at 6.

¹¹ Id.

¹² Id. at 7.

¹³ Id.

¹⁴ Id. at 8.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 9.

¹⁸ Id.

¹⁹ Id. at 10.

²⁰ Id. at 11.

²¹ Id.

²² Id. at 11-12.

Mario then called Beth who came out and asked how much PO1 Manansala and the CI were buying.²³ PO1 Manansala responded that they were buying ₱500.00 worth of shabu.²⁴ Beth then took out a wallet from her pocket, brought out a sachet, and handed the same to PO1 Manansala.²⁵ In turn, PO1 Manansala handed over the ₱500.00 to Beth as payment.²⁶ Thereafter, PO1 Manansala executed the pre-arranged signal by sending a blank text message to their team leader to apprise the team that the sale had been consummated.²⁷

The back-up arresting officers immediately rushed to the target area.²⁸ PO1 Manansala arrested Beth, introduced himself as a police officer, and informed accused-appellants of their constitutional rights.²⁹ PO2 Omega on the other hand arrested Mario.³⁰ Commotion, however, ensued which compelled the police officers to leave the target area and to return to their headquarters.³¹ Upon arrival at the CAIDSOT Office, PO1 Manansala marked the sachet of shabu he purchased from accused-appellants with the initials "AGM."³²

At the police station, PO2 Omega then directed Beth to empty the contents of her pocket. Beth complied and took out a pouch from her pocket. PO2 Omega opened the same and discovered 28 more sachets of shabu inside the said pouch. PO2 Omega marked the sachets with his initials "ALO" to distinguish the sachets from the one PO1 Manansala seized from Mario.

PO1 Manansala and the rest of the police waited for the arrival of the insulating witnesses before conducting the inventory.³³ Barangay Kagawad Cris Tooley Jr. and Department of Justice representative Jaime Navarro arrived the following day in response to the request of the police.³⁴ PO1 Manansala then turned over the confiscated items to the investigator, PO3 Rolan A. Lonsame (PO3 Lonsame).³⁵ Thereafter, PO3 Lonsame conducted the inventory of the seized items.³⁶ Subsequently, PO3 Lonsame submitted the requests for laboratory examination together with the seized items to the crime laboratory for qualitative examination.³⁷

²³ Id. at 12.

²⁴ Id.

²⁵ Id.

²⁶ Id.

²⁷ Id. at 12-13.

²⁸ Id. at 13.

²⁹ Id.

³⁰ Id. at 14.

³¹ Id.

³² Id. at 15.

³³ Id. at 16.

³⁴ Id. at 17.

³⁵ Id.

³⁶ Id. at 18.

³⁷ Records, Criminal Case No. 301-2015, pp. 9-10.

Forensic Chemist Maria Cecilia Gonzales Tang (FC Tang) personally received the documents and seized items from PO3 Lonsame.³⁸ FC Tang conducted a qualitative examination on the seized drugs. Chemistry Report No. D-066-2015³⁹ concluded that the contents of the seized sachets tested positive for methamphetamine hydrochloride, a dangerous drug.

Version of the Defense

Beth narrated that on May 5, 2015, at around 7:00 p.m., she was at home located at 119 Lower Kalaklan, Olongapo City together with her live-in partner, Mario.⁴⁰ While taking a bath, two police officers in civilian clothes, who were later identified as PO2 Omega and PO1 Manansala, suddenly arrived and pointed a gun in her neck,⁴¹ and ordered Beth and Mario to lie face down.⁴² The police officers destroyed their cabinets as they were looking for a gun.⁴³ As they failed to find what they were looking for, the police officers took accused-appellants' things, including their clothes and speakers.⁴⁴ Thereafter, the police officers brought them to the police station.⁴⁵ Thereat, PO3 Lonsame brought out several sachets of shabu and told them that they were recovered from the accused-appellants.⁴⁶ Beth insisted that the said sachets of shabu were not theirs.⁴⁷ However, PO3 Lonsame told Beth that the same will be used as evidence against them.⁴⁸ The following day, accused-appellants were brought to the crime laboratory for drug testing.⁴⁹ Thereafter, they were detained.⁵⁰

Ruling of the Regional Trial Court

The RTC, in its Decision⁵¹ dated May 29, 2017, rendered the following ruling, *viz.*:

WHEREFORE, in view of the foregoing premises, the Court finds that:

1. Accused ELIZABETH LOBO y REGULACION and MARIO MARCELINO y ALEJANDRO in Criminal Case No. 300-2015, GUILTY beyond reasonable doubt for Violation of Section 5 in relation to Section 26-B, Article II of Republic Act No. 9165, and hereby sentences them to suffer the penalty of life imprisonment and to pay the fine of Five Hundred Thousand Pesos (P500,000.00).

³⁸ TSN, December 9, 2016, p. 4.

³⁹ Records, Criminal Case No. 300-2015, p. 40; Criminal Case No. 301-2015, p. 11.

⁴⁰ TSN, February 17, 2017, pp. 4-5.

⁴¹ Id, at 5-6.

⁴² Id, at 7.

⁴³ Id.

⁴⁴ Id, at 8-9.

⁴⁵ Id, at 9.

⁴⁶ Id, at 10.

⁴⁷ Id, at 11.

⁴⁸ Id.

⁴⁹ Id, at 12.

⁵⁰ Id.

⁵¹ *Rollo*, pp. 35-56.

2. Accused ELIZABETH LOBO y REGULACION in Criminal Case No. 301-2015, GUILTY beyond reasonable doubt for Violation of Section 11, Article II of Republic Act No. 9165 and hereby sentence her to serve an imprisonment of twenty (20) years and one (1) day to life imprisonment and to pay a fine of Four Hundred Thousand Pesos (P400,000.00) without any subsidiary imprisonment in case of insolvency.

In the service of the sentence, the accused shall be credited with the duration of their preventive imprisonment under the condition of Article 29 of the Revised Penal Code.

The "Shabu", a dangerous drug, weighing Two Hundred Five Thousandths (0.205) of a gram placed in one (1) heat-sealed transparent plastic sachet in Criminal Case No. 300-2015 and the twenty-eight (28) heat-sealed transparent plastic sachets containing Methamphetamine Hydrochloride of "Shabu", with the following markings and weight: B1 (Exh "B" ALO RAL) = 0.331 gram; B2 (Exh "B-1" ALO RAL) = 0.172 gram; B3 (Exh "B-2" ALO RAL) = 0.152 gram; B4 (Exh "B-3" ALO RAL) = 0.218 gram; B5 (Exh "B-4" ALO RAL) = 0.207 gram; B6 (Exh "B-5" ALO RAL) = 0.146 gram; B7 (Exh "B-6 ALO RAL) = 0.203 gram; B8 (Exh "B-7 ALO RAL) = 0.204 gram; B9 (Exh "B-8" ALO RAL) = 0.244 gram; B10 (Exh "B-9" ALO RAL) = 0.211 GRAM; B11 (Exh "B-10" ALO RAL) = 0.261 gram; B12 (Exh "B-11" ALO RAL) = 0.199 gram; B13 (Exh "B-12" ALO RAL) = 0.337 gram; B14 (Exh "B-13" ALO RAL) = 0.133 gram; B15 (Exh "B-14" ALO RAL) = 0.182 gram; B16 (Exh "B-15" ALO RAL) = 0.265 gram; B17 (Exh "B-16" ALO RAL) = 0.231 gram; B18 (Exh "B-17" ALO RAL) = 0.302 gram; B19 (Exh "B-18" ALO RAL) = 0.203 gram; B20 (Exh "B-19" ALO RAL) = 0.177 gram; B21 (Exh "B-20" ALO RAL) = 0.346 gram; B22 (Exh "B-21" ALO RAL) = 0.306 gram; B23 (Exh "B-22" ALO RAL) = 0.335 gram; B24 (Exh "B-23" ALO RAL) = 0.173 gram; B25 (Exh "B-24" ALO RAL) = 0.111 gram; B26 (Exh "B-25" ALO RAL) = 0.408 gram; B27 (Exh "B-26" ALO RAL) = 0.385 gram; B28 (Exh "B-27" ALO RAL) = 0.185 gram, with a total weight of 6.627 grams under Criminal Case No. 301-[2015] are ordered confiscated and forfeited in favor of the government and forwarded to the Philippine Drug Enforcement Agency for proper disposition pursuant to Section 20 in relation to Section 21 of Republic Act 9165.

SO ORDERED.⁵²

The RTC held that the prosecution sufficiently established all the elements of the crimes charged. The police officers had substantially complied with the chain of custody rule, concluding that the integrity and evidentiary value of *corpus delicti* were preserved. On the other hand, it rejected accused-appellants' defenses of denial and frame-up for being uncorroborated.

Aggrieved, accused-appellants appealed their conviction before the CA.

⁵² Id. at 55-56.

Ruling of the Court of Appeals

In its assailed July 17, 2020 Decision,⁵³ the CA affirmed the trial court's Decision. It sustained the trial court's finding that the integrity and the evidentiary value of the *corpus delicti* have been preserved and the chain of custody remained unbroken.

The appellate court likewise rejected the defenses of denial and frame-up proffered by the accused-appellants, holding that these defenses are insufficient to overthrow the overwhelming evidence presented against them.

Finally, the CA ruled that the penalties imposed by the trial court were proper.

Thus, the dispositive portion of the CA Decision reads:

ACCORDINGLY, the appeal is DENIED. The Decision dated 29 May 2017 of the Regional Trial Court, Branch 72, Olongapo City finding accused-appellants Elizabeth Lobo y Regulacion and Mario Marcelino y Alejandro, GUILTY for violating Section 5 in relation to Section 26-B, Article II of R.A. No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, in Criminal Case No. 300-2015, and accused-appellant Elizabeth Lobo y Regulacion, GUILTY beyond reasonable doubt for violating Section 11, Article II of the same Act in Criminal Case No. 301-2015, is hereby AFFIRMED.

SO ORDERED.⁵⁴

Hence, the instant appeal.

Issue

For resolution is the issue of whether the CA correctly found accused-appellants guilty beyond reasonable doubt of violation of Secs. 5 and 11, Art. II of RA 9165.

Our Ruling

The appeal is meritorious.

In the prosecution of drug cases, it is of paramount importance that the integrity and evidentiary value of the *corpus delicti* are preserved. Thus, Sec. 21 of RA 9165, as amended outlined the procedure to be followed by the apprehending officers in the seizure, handling, and custody of the confiscated illegal drugs and/or paraphernalia.

⁵³ Id. at 8-30.

⁵⁴ Id. at 29.

Here, the acts subject of this case were allegedly committed on May 5, 2015, or after the amendment of Sec. 21, Art. II of RA 9165 by RA 10640.⁵⁵ The pertinent portion of Sec. 21 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 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. (Emphasis and underscoring Ours)

In addition, Sec. 21(a) of the Implementing Rules and Regulations (IRR) of RA 9165 expressly 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:

(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

⁵⁵ 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: July 15, 2014.

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;** (Emphases supplied)

To further ensure the integrity and evidentiary value of the seized drugs, the prosecution must account for each link in its chain of custody:

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 seized by the forensic chemist to the court.⁵⁶

We find that the prosecution failed to satisfactorily comply with this requirement. It must be noted that after the arrest of Beth and Mario, the buy-bust team failed to immediately conduct the inventory of the drugs upon seizure and confiscation of the same.

During trial, PO2 Omega effectively admitted to this lapse when he testified as follows:

Q: What made you say that that is the very same transparent plastic sachet that you were able to recover from the person of Elizabeth?

A: I placed my initials, sir.

Q: Which is?

A: ALO, sir.

Q: ALO stands for?

A: Arnie Lerma Omega, sir.

x x x x

Q: After you placed [your] marking on those transparent plastic sachets, what else did you do?

A: I kept first the transparent plastic sachets because we cannot conduct the inventory at that moment because of the unavailability of witnesses.

⁵⁶ *People v. Siaton*, 789 Phil. 87, 98-99 (2016).

- Q: Where did you placed [sic] these items while you were in its possession?
A: In my pocket sir.
- Q: For how long did you took [sic] custody of these items?
A: Until next day sir.
- Q: What did you do with this specimen the next day?
A: We conduct an inventory and I turn over the items to the duty investigator.
- Q: And who is the duty investigator at that time?
A: PO3 Rolan Lonsame
- Q: Was PO3 Lonsame at that time when you arrived there first at the police station, when you first recovered these items?
A: He was there sir.
- Q: Why is it that you did not immediately turn-over the evidence to PO3 Lonsame if he would be the officer on case and evidence custodian of the evidence subject matter of that particular buy-bust operation?
A: We do not have witnesses for the turnover sir.⁵⁷

As can be gleaned from the established facts, PO2 Omega personally marked the 29 plastic sachets with white crystalline substance which he was able to recover from Beth. This is clear from the testimony of PO2 Omega who narrated that he marked the same with his initials "ALO." Moreover, the marking of the seized items was not made in the presence of the insulating witnesses. He narrated that he kept the seized items until the next day when they conducted the inventory. As explained by the buy-bust team, the delay was due to the unavailability of the insulating witnesses at the time of the buy-bust operation.

Corroborating the testimony of PO2 Omega, PO3 Lonsame, who acted as the case investigator, testified that there was no date indicated on the inventory receipt when the insulating witnesses placed their signature. Moreover, PO3 Lonsame likewise admitted that the buy-bust team failed to immediately conduct the inventory of the seized drugs when he testified as follows:

- Q: x x x x [i]n that inventory receipt, you did not mention the date of the buy-bust operation?
A: Yes sir.
- Q: Mr. witness, there is also certain entries there, name of suspects: Elizabeth Lobo y Regulacion and Mario Marcelino y Alejandro, do you agree with me that there was no signature on top of those printed entries, correct?
A: Yes sir.

⁵⁷ TSN, February 5, 2016, pp. 12-14.

Q: Likewise in the name of the alleged witnesses in this inventory receipt and chain of custody who witnessed the inventory are certain Cris C. Tooley, Jr. and Jaime P. Navarro, correct?

A: Yes sir.

Q: Do you agree with me that while their alleged signatures were placed after their name?

A: Yes sir.

Q: [In spite] of that fact Mr. Witness, the [date] when they placed their respective signatures on this inventory receipt was not also written, correct?

A: Yes, sir.

Q: Including the time when they [placed] their alleged [signatures], correct?

A: Yes sir.

Q: Sir the date of the inventory is the following day and our team leader exerted effort to call the possible witnesses in this operation but in spite of the effort of our team leader, the witnesses arrived on the following day x x x⁵⁸

x x x x

Q: The alleged buy bust operation according to you happened on May 5, 2015?

A: Yes sir.

Q: And this alleged inventory transpired a day after, correct?

A: Yes sir.

Q: Of your own personal knowledge are you not supposed to conduct the inventory on the day the buy bust operation was conducted?

A: As I have said earlier our team leader exerted effort to call the witnesses but despite the effort done by the team leader, the witnesses arrived a day after, so the seizing officers made to sacrifice and stay in our office just to preserve the evidence.⁵⁹

In this case, it is apparent that the prosecution failed to establish that the apprehending team complied with the rule on chain of custody. Based on the established facts, it was shown that the dangerous drugs were inventoried and photographed at the police station a day after the seizure and confiscation of the same. Although the records show that the inventory was conducted at the police station in the presence of the insulating witnesses, the apprehending team clearly violated Sec. 21, Art. II of RA 9165 by failing to comply with the immediate conduct of the inventory of the seized drugs.

Sec. 21(a) of the IRR of RA 9165 expressly provides that the noncompliance with the requirements, under justifiable grounds, shall not

⁵⁸ TSN, March 4, 2016, pp. 10-12.

⁵⁹ Id. at 13-14.

render void and invalid the seizures of and custody over the items seized, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team.

However, it is apparent that the buy-bust team utterly failed to comply with the aforesaid procedure. The apprehending officers clearly failed to provide a credible explanation justifying the noncompliance of the immediate conduct of the inventory of the seized drugs set under Sec. 21, Art. II of RA 9165. To stress, the buy-bust team should have enough time and opportunity to bring with them said witnesses, after all, such requirement can easily be complied with considering that the buy-bust operation is, by its nature, a planned activity.⁶⁰

From the foregoing testimonies of PO3 Lonsame and PO2 Omega, We are not convinced that the prosecution had sufficiently established an unbroken chain of custody as laid down under Sec. 21 of RA 9165 as well as Sec. 21 of the IRR of the said law with regard to the charges filed against the accused-appellants. Sec. 21(a) of the IRR of RA 9165 expressly provides that the noncompliance with the requirements under justifiable grounds, shall not render void and invalid the seizures of and custody over the items seized, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team. Consequently, the lower courts believed that the one-day delay in the conduct of the inventory of the seized drugs, may only be treated as a minor lapse and outweighed the fact that the integrity and evidentiary value of the seized drugs from the accused-appellants have been properly preserved.

The Court disagrees.

The omissions above noted clearly indicate that the prosecution failed to establish that there was a justifiable ground that warrants the non-observance of the mandatory requirements set under Sec. 21 of RA 9165. Such a departure from the chain of custody rule casts doubt upon the integrity and evidentiary value of the seized item, thus, creating reasonable doubt on the criminal liability of the accused-appellants. Notably, the Court in *Fuentes v. People*⁶¹ enunciated the mandatory nature of the chain of custody rule, viz.:

The chain of custody rule is the administrative mechanism established by legislature to ensure an acceptable level of certainty with respect to the drugs' integrity and evidentiary value. Hence, **failure to comply or failure to justify non-compliance means that this level of certainty has not been satisfied, and as a result, conjures reasonable doubt on an indispensable element of the crime.** This is the reason why the law states "non-compliance with the requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the

⁶⁰ *People v. Tomawis*, 830 Phil. 385, 405 (2018).

⁶¹ G.R. No. 228718, January 7, 2019.

apprehending officer/team, shall not render void and invalid such seizures and custody over said items,” which inversely stated, effectively means that the seizure and custody over the items are rendered void and invalid by the non-compliance with these requirements, unless the non-compliance is under justifiable grounds, and that the integrity and the evidentiary value of the seized items are properly preserved. **Overall, it may therefore be said that the foundational bearings of the chain of custody rule, owing to the peculiar treatment of the *corpus delicti* in drugs cases, hearken to the accused’s presumption of innocence, and thus, flesh out safeguards therefor.** It is this signification that firmly confirms the nature of the chain of custody rule as a matter of substantive law, and not a mere technical rules of court procedure.⁶² (Emphasis supplied)

This Court, therefore, concludes that the prosecution’s bare assertions and justification that the buy-bust team failed to immediately conduct inventory of the seized drugs upon seizure due to lack of insulating witnesses at the time of arrest deserve no consideration. Thus, contrary to the pronouncements of the lower courts, this uncertainty cannot be remedied by simply invoking the presumption that the police officers properly and regularly performed their official duties.

Although strict compliance with Sec. 21, Article II of RA 9165 may not always be possible, the Court has elucidated that:

Under the last paragraph of Section 21(a), Article II of the IRR of R.A. No. 9165, a saving mechanism has been provided to ensure that not every case of non-compliance with the procedures for the preservation of the chain of custody will irretrievably prejudice the Prosecution’s case against the accused. To warrant the application of this saving mechanism, however, the Prosecution must recognize the lapse or lapses, and justify or explain them. Such justification or explanation would be the basis for applying the saving mechanism. Yet, the Prosecution did not concede such lapses, and did not even tender any token justification or explanation for them. The failure to justify or explain underscored the doubt and suspicion about the integrity of the evidence of the *corpus delicti*. With the chain of custody having been compromised, the accused deserves acquittal.⁶³

In view of such unwarranted departure from the chain of custody rule, the Court is therefore constrained to conclude that the integrity and evidentiary value of the *corpus delicti* subject of the illegal sale and possession have been compromised, which consequently warrants accused-appellants’ acquittal for the crimes charged.

Finally, it is worthy to note that the procedure in Sec. 21, Art. II of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.⁶⁴

⁶² *Id.*

⁶³ *Tañamor v. People*, G.R. No. 228132, March 11, 2020, citing *People v. Reyes*, 797 Phil. 671, 690 (2016).

⁶⁴ *People v. Jugo*, 824 Phil 743, 756 (2018).

WHEREFORE, the appeal is **GRANTED**. The July 17, 2020 Decision rendered by the Court of Appeals in CA-G.R. CR-HC No. 10855 is **REVERSED** and **SET ASIDE**. Accused-appellants Elizabeth Lobo y Regulacion and Mario Marcelino y Alejandro are **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt. They are ordered immediately **RELEASED** from detention, unless they are confined for any other lawful cause.

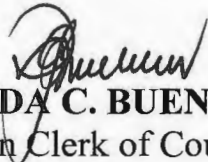
Let a copy of this Resolution be furnished the Director General, Bureau of Corrections, Muntinlupa City, and the Superintendent, Correctional Institution for Women, Mandaluyong City, for immediate implementation. The Director General and the Superintendent are **DIRECTED** to report to this Court the action taken hereon within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.

The Office of the Solicitor General and the accused-appellants' Manifestations (in lieu of supplemental briefs), both pursuant to the Resolution dated March 30, 2022, are both **NOTED**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
4318

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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MAR 08 2023

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

Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 10855)

The Hon. Presiding Judge
Regional Trial Court, Branch 72
Olongapo City, 2200 Zambales
(Crim. Case Nos. 300-2015 & 301-2015)

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