



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames

Please take notice that the Court, Third Division, issued a Resolution dated August 31, 2022, which reads as follows:

“G.R. No. 249160 (*People of the Philippines, appellee v. Norberto Casiguran y Serbano, Kaori Takamatsu y Koh and Cristina Templa y Matalandang @ Grace [at large], accused; Norberto Casiguran y Serbano and Kaori Takamatsu y Koh, accused-appellants*). – The Court resolves to:

(1) **NOTE:**

- (a) the Letter dated February 3, 2020 of SJO3 Albert C. Manalo, Officer-in-Charge, Documents Section of the New Bilibid Prison, Bureau of Corrections, Muntinlupa City, confirming the confinement therein of accused-appellant Norberto Casiguran y Serbano since December 17, 2016, and accused-appellant Kaori Takamatsu y Koh at the Correctional Institution for Women (CIW) since October 31, 2016;
- (b) Letter dated February 3, 2020 of J/SInsp. Angelina L. Bautista, Acting Superintendent of the CIW, Bureau of Corrections, Mandaluyong City, confirming the confinement therein of accused-appellant Kaori Takamatsu y Koh since October 31, 2016; and
- (c) Manifestation (In Lieu of Supplemental Brief) dated February 19, 2020, filed by accused-appellants, stating that since the brief for the accused-appellants have adequately discussed all the matters pertinent to their defense, the same is hereby adopted as their supplemental brief; and

- (2) **NOTE** and **GRANT** the Manifestation and Motion (In Lieu of Supplemental Brief) dated February 20, 2020, filed by the Office of the Solicitor General, stating that it dispenses with the filing of a supplemental brief considering that the brief for the appellee it filed before the Court of Appeals had substantially and

exhaustively responded to and refuted accused-appellants' arguments contained in their appeal brief and a supplemental brief will merely contain a reiteration/repetition of the arguments already discussed in the said brief for the appellee.

For resolution is an appeal of the Decision¹ dated May 7, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09157 which affirmed the Decision² dated August 1, 2016 of the Regional Trial Court (RTC) of Parañaque City, Branch 259, in Criminal Case Nos. 14-0348 to 51.

The Antecedent Facts

Accused-appellant Norberto Casiguran y Serbano (Casiguran) was charged in two separate Informations both dated February 27, 2014 for the crimes of Illegal Sale and Possession of Dangerous Drugs. The accusatory portions of the Informations read:

[CRIMINAL CASE No. 14-0348]

That on or about the 25th day of February 2014, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport one (1) heat-sealed transparent plastic sachet marked as A(JL) weighing 0.02 gram[s] to Police Poser Buyer PO3 JOEL LOCSIN, the content of the said plastic sachet when tested was found positive to be Methamphetamine [H]ydrochloride, a dangerous drug.

[CRIMINAL CASE No. 14-0349]

That on or about the 25th day of February 2014, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to possess, did then and there willfully, unlawfully and feloniously have in his possession and under his control and custody two (2) heat-sealed transparent plastic sachets weighing 0.04 gram[s] marked as B (JL-1) and 0.03 gram[s] marked as D (DP-1) with a total weight of 0.07 gram[s], which when tested were found to be positive for Methamphetamine Hydrochloride, a dangerous drug.³

Accused-appellant Kaori Takamatsu y Koh (Takamatsu) was charged in an Information dated February 27, 2014 for the crime of Illegal Possession of Dangerous Drugs. The accusatory portion of the Information reads:

[CRIMINAL CASE No. 14-0350]

¹ *Rollo*, pp. 3-17; penned by Associate Justice Manuel M. Barrios, with Associate Justices Jhosep Y. Lopez (now a Member of this Court) and Japar B. Dimaampao (now a Member of this Court), concurring.

² *CA rollo*, pp. 68-83; penned by Assisting Judge Jansen R. Rodriguez.

³ *Rollo*, pp. 6-7.

That on or about the 25th day of February 2014, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to possess, did then and there willfully, unlawfully and feloniously have in her possession and under her control and custody one (1) heat-sealed transparent plastic sachet weighing 0.03 gram[s] marked as C (DP), which when tested was found to be positive for Methamphetamine Hydrochloride, a dangerous drug.⁴

Casiguran and Takamatsu (accused-appellants), assisted by counsel *de officio*, both pleaded not guilty to all charges during their arraignment on March 4, 2014.⁵ Trial on the merits ensued.

Version of the Prosecution

The prosecution presented as its witnesses Police Officer (PO) 3 Joel Locsin (PO3 Locsin), PO2 Dionesio Palce (PO2 Palce), and Barangay Kagawad Geraldo Dela Cruz (Kgd. Dela Cruz).

The CA in its Decision summarized the facts established by the prosecution as follows:

On 25 February 2014, at around 10:30 in the morning, the Philippine National Police (PNP) station in Parañaque City received information that a certain “Norben” [Casiguran] was flagrantly selling shabu in the vicinity of Purok 4, Silverio Compound, Barangay San Isidro. PO3 Locsin promptly relayed the information to their superior, PSI Paulo Paquito Tampo who, in turn, communicated the same to their Chief, PS/Supt Ariel Leonor Andrade. A buy-bust team was then immediately formed, with witnesses PO3 Locsin and PO2 Palce being designated as poseur-buyer and immediate back-up respectively. During the briefing, PSI Tampol provided PO3 Locsin with three (3) ₱100 bills as the buy-bust money.

On board a private vehicle, the team proceeded to their target area at Silverio Compound. PO3 Locsin and the informant went ahead towards their suspect “Norben” while the rest of the team posted themselves nearby. After identifying “Norben”, the informant introduced PO3 Locsin to “Norben” as a tricycle driver who desired to buy shabu. PO3 Locsin told “Norben”, “*Pre, paiskor ako talong daan lang tikman ko lang items mo.*” “Norben” replied, “*May apat na kasa pa ako dito tama lang iiskor din itong dalawang babae*” referring to accused-appellant Kaori Takamatsu and accused Cristina Templa. “Norben” handed a heat-sealed plastic sachet of suspected shabu to Takamatsu and gave another sachet to PO3 Locsin. In exchange, PO3 Locsin gave “Norben” the buy-bust money. PO3 Locsin immediately removed his bull cap to signal the consummation of the transaction. Immediate back-up PO2 Palce and the rest of the team then rushed in to the scene. Two (2) more plastic sachets of suspected shabu were recovered from “Norben”. Meanwhile, accused Cristina Templa was found in possession of five (5) disposable lighters and three (3) aluminum foil strips. “Norben” and the women were arrested. They were then brought along with the items to the Barangay Hall of San Isidro where an inventory was conducted and photographs were taken in the presence of Barangay

⁴ Id. at 7.

⁵ CA rollo, p. 70.

Kagawad Dela Cruz. PO2 Palce prepared the necessary documents namely, the Receipt/Inventory of Property Seized, Chain of Custody Form and Joint Affidavit of Arrest. Thereafter, the confiscated items were personally brought by PO3 Locsin to the crime laboratory and were received by PSI Sahagun. After chemical examination, the substances were found positive for shabu or *methamphetamine hydrochloride*.⁶

Version of the Defense

The defense presented accused-appellants as its witnesses.

Casiguran denied all the allegations against him. His version of what allegedly transpired was summarized by the CA as follows:

[O]n the date and time material, he was about to buy food when he passed by a street corner where people were playing *cara y cruz*. Somebody asked him if he knew a certain “Rodel Domdom.” When he answered in the negative, a police officer poked a gun at him, saying, “*Walang tatakbo, mga pulis kami.*” He was stunned and tried to elude arrest; but the police caught him and took him to the talipapa to board a Crosswind vehicle along with four (4) others from the *cara y cruz* incident. The police asked for money, but only his companions were able to give the police. The police asked him if he knew “Rodel Domdom” and again he replied in the negative. The police told him “*Tutuluyan ka namin!*” Then two female persons were brought inside the Crosswind and they were all taken to the barangay hall of San Isidro. There, pictures of them were taken. Next, they headed to the crime laboratory for medical check-up and finally they were brought to the Station Anti-Illegal Drugs (SID) where they were detained and charges against them were filed. At the inquest proceedings, he came to know the two (2) female individuals – his co-accused appellant Kaori Takamatsu and accused Cristina Templa.⁷

Takamatsu likewise denied all the allegations against her. On the contrary, she claimed the following:

Takamatsu asserted that she was in her house with her live-in partner and their child when five (5) male persons abruptly barged in. Without giving word, the male persons searched their room. After finding nothing, they told her they were looking for a certain person named “Berting.” When she told them she did not know such person, they handcuffed her, took her to the talipapa, and boarded her in a Crosswind vehicle. Inside the vehicle, she saw two other handcuffed individuals – a male and a female – who were both unknown to her. After taking their pictures and tested their urine at the crime laboratory, they were detained at the SID and criminally charged in court.⁸

The RTC Ruling

⁶ *Rollo*, pp. 7-9.

⁷ *Id.* at 9.

⁸ *Id.* at 9-10.

The RTC rendered its Decision⁹ convicting both accused-appellants for all the charges against them. The dispositive portion of the Decision states:

WHEREFORE, premises considered, the Court finds the accused **NORBERTO CASIGURAN y SERBANO @ NORBEN** in *Criminal Case No. 14-0348* for **Violation of Sec. 5, Art[.] II of R.A. No. 9165** (otherwise known as the Comprehensive Dangerous Drugs Act of 2002[]), not being lawfully authorized by law, sold one (1) heat[-]sealed transparent plastic sachet marked as **A(JL) weighing 0.02 gram[s]**, a dangerous drug, **GUILTY beyond reasonable doubt** and is hereby sentenced to suffer the penalty of **life imprisonment** and pay the fine of One million pesos (Php1,000,000.00).

WHEREFORE, premises considered, the Court finds the accused **NORBERTO CASIGURAN y SERBANO @ NORBEN** in *Criminal Case No. 14-0349* for **Violation of Sec. 11, Art[.] II of R.A. No. 9165** (otherwise known as the Comprehensive Dangerous Drugs Act of 2002), for illegal possession of two (2) heat-sealed transparent plastic sachets weighing **0.04 gram[s] marked as “B(JL-1)” and 0.03 gram[s] marked as “D (DP-1),”** with a total weight of 0.07 gram[s], a dangerous drug, **GUILTY beyond reasonable doubt** and is hereby sentenced to suffer the penalty of twelve (12) years and one (1) day as minimum to seventeen (17) years as maximum imprisonment and to pay [a] fine in the amount of Php300,000.00.

WHEREFORE, premises considered, the Court finds the accused **KAORI TAKAMATSU y KOH @ KAO** in *Criminal Case No. 14-0350* for **Violation of Sec. 11, Art[.] II of R.A. No. 9165** (otherwise known as the Comprehensive Dangerous Drugs Act of 2002), for illegal possession of one (1) heat-sealed transparent plastic sachet weighing 0.03 gram[s] marked as **“C(DP),”** a dangerous drug, **GUILTY beyond reasonable doubt** and is hereby sentenced to suffer the penalty of twelve (12) years and one (1) day as minimum to seventeen (17) years as maximum imprisonment and to pay [a] fine in the amount of Php300,000.00.

WHEREFORE, premises considered, the Court finds the accused **CRISTINA TEMPLA y MATALANDANG @ GRACE** in *Criminal Case No. 14-0351* for **Violation of Sec. 12, Art[.] II of R.A. No. 9165** (otherwise known as the Comprehensive Dangerous Drugs Act of 2002), for illegal possession of drug paraphernalia, to wit: **three (3) aluminum foil strips with markings E-1 to E-3 (RD to RD-2), two (2) rolled aluminum foil strips with markings F-1 (RD-3) and F-2 (RD-4), five (5) disposable plastic lighters with markings G-1 to G-5 (RD-5 to RD-9),** **GUILTY beyond reasonable doubt** and is hereby sentenced to suffer the penalty of six (6) months and one (1) day as minimum to four (4) years as maximum imprisonment, and to pay a fine in the amount of Php50,000.00.

Considering that the judgment is for conviction as well as the penalty involved, the OIC-Branch Clerk of Court is hereby directed to prepare the *Mittimus* for the accused **NORBERTO CASIGURAN y SERBANO @ NORBEN** to be detained at the New Bilibid Prisons, Muntinlupa City while accused **KAORI TAKAMATSU y KOH @ KAO** at the Correctional **Institute for Women, Mandaluyong City.**

⁹ CA rollo, pp. 68-83.

As for the accused **CRISTINA TEMPLA y MATALANDANG @ GRACE**, who was released on the bail bond she posted but jumps bail, hence, the Court issued an Order dated August 3, 2015 forfeiting her bail bond and issuing a Warrant of Arrest. The said Warrant of Arrest is hereby issued anew by virtue of her conviction.

The recovered one (1) heat-sealed transparent plastic sachet marked as A(JL) weighing 0.02 gram[s], two (2) heat-sealed transparent plastic sachets weighing 0.04 gram[s] marked as “B(JL-1)” and 0.03 gram[s] marked as “D(DP-1)” with a total weight of 0.07 gram[s], from NORBERTO CASIGURAN y SERBANO @ NORBEN; one (1) heat-sealed transparent plastic sachet weighing 0.03 gram[s] marked as “C(DP),” from KAORI TAKAMATSU y KOH @KAO; and three (3) aluminum foil strips with markings E-1 to E-3 (RD to RD-2), two (2) rolled aluminum foil strips with markings F-1 (RD-3) and F-2 (RD-4), five (5) disposable plastic lighters with markings G-1 to G-5 (RD-5 to RD-9) from CRISTINA TEMPLA y MATALANDANG @ GRACE, which were found positive for shabu, a dangerous drug and subject of these cases are forfeited in favor of the government and the OIC-Evidence Custodian is directed to immediately turn over the same to the Philippine Drug Enforcement Agency (PDEA) for proper disposal pursuant to Section 21 of RA 9165 and Supreme Court OCA Circular No. 51-2003.

SO ORDERED.¹⁰ (Emphases and italics in the original)

It held that all the elements of the crimes charged were sufficiently proven by the clear and credible testimonies of the prosecution witnesses. The police conducted a valid buy-bust operation which resulted in the confiscation of dangerous drugs and various drug paraphernalia.¹¹

Although there were no representatives from the media or the Department of Justice (DOJ) during the inventory stage, it ruled that this did not automatically make the arrest illegal nor the evidence seized inadmissible. In this case, the integrity and evidentiary value of the seized drugs and paraphernalia were preserved due to the presence of Kgd. Dela Cruz, which was substantial compliance with the law.¹²

Finally, accused-appellants’ defenses of denial and frame-up were denied for being unsubstantiated. Casiguran’s claim that he was playing *cara y cruz* when the police officers came and arrested him could have been corroborated by his friends he was playing with. Takamatsu’s claim that she was merely at home when the police officers barged in could have been supported by her husband, whom she was allegedly with at that time. The failure to support their allegations leads to the conclusion that their arrests were made in the police officers’ regular performance of duties.¹³

¹⁰ Id. at 81-83.

¹¹ Id. at 77-78.

¹² Id. at 80-81.

¹³ Id. at 78-79.

Aggrieved, accused-appellants appealed to the CA.¹⁴

Accused-appellants, represented by the Public Attorney's Office (PAO), filed their Brief for the Accused-Appellants.¹⁵ They mainly argued:

1. The RTC erred in convicting them based on the prosecution witnesses' testimonies which were inconsistent and improbable.¹⁶
2. The prosecution failed to prove all the elements of the crimes charged in light of the prosecution's faulty evidence.¹⁷
3. The police officers failed to comply with pertinent drug enforcement rules and regulations as well as the chain of custody requirements under Section 21, Article II of Republic Act (R.A.) No. 9165. This rendered the evidence constituting the basis of their conviction inadmissible.¹⁸

The State, through the Office of the Solicitor General (OSG), in response filed its Brief for the Appellee.¹⁹ It insisted that the RTC committed no reversible error in convicting accused-appellants since they were caught *in flagrante delicto* during the valid buy-bust operation.²⁰

Further, any alleged inconsistencies in the prosecution witnesses' testimonies pertained only to minor and trivial matters, and did not suffice to reverse a conviction. The police officers remained credible witnesses who did not have any malicious intent to fabricate charges against accused-appellants.²¹

Lastly, it asserted that the police officers substantially complied with the chain of custody requirements under the law to preserve the integrity and evidentiary value of the seized items.²²

The CA Ruling

The CA rendered its assailed Decision²³ denying accused-appellants' appeal, and sustaining their conviction. It pertinently ruled:

WHEREFORE, premises considered, the Decision dated 01 August 2016 of the Regional Trial Court, Branch 259, Parañaque City is **AFFIRMED** with **MODIFICATION** in that in Criminal Case No. 14-0348, accused-appellant Norberto Casiguran shall pay a reduced fine of

¹⁴ Id. at 12-13.

¹⁵ Id. at 41-66.

¹⁶ Id. at 51-54.

¹⁷ Id. at 54-58.

¹⁸ Id. at 58-64.

¹⁹ Id. at 98-128.

²⁰ Id. at 111-113.

²¹ Id. at 113-116.

²² Id. at 116-123.

²³ *Rollo*, pp. 3-17.

₱500,000.00. The disposition of the trial court in all other respects is **SUSTAINED**.

SO ORDERED.²⁴ (Emphases in the original)

The CA held that the prosecution satisfactorily proved that accused-appellants were caught *in flagrante delicto* selling and possessing the dangerous drugs and paraphernalia during the buy-bust operation. Also, the alleged inconsistencies in the prosecution witnesses' testimonies such as the number of members in the buy-bust team, the distance of the back-up team from the transaction, and the fact that PO3 Locsin was introduced as a taxi driver instead of a tricycle driver, are merely trivial matters, and not fatal to the case.²⁵ It likewise held that the deviation from the chain of custody requirements under the law was justified, and the police officers were still able to preserve its integrity and evidentiary value.²⁶

Hence, accused-appellants filed the instant appeal to this Court.²⁷

This Court acted on the appeal, and issued its Resolution²⁸ dated December 11, 2019 requiring the parties to submit their respective supplemental briefs.

Accused-appellants, through the PAO, filed a Manifestation²⁹ stating that they would no longer file a supplemental brief because their defenses were adequately discussed in their Brief for the Accused-Appellants.

The State, through the OSG, also filed a Manifestation and Motion³⁰ alleging that it would no longer file a supplemental brief since it had already substantially and exhaustively responded to all of the accused-appellants' defenses in its Brief for the Appellee.

The Issue

The sole issue for resolution in this case is whether or not accused-appellants are guilty beyond reasonable doubt of the crimes charged.

The Ruling of this Court

The appeal is granted.

²⁴ Id. at 16-17.

²⁵ Id. at 13.

²⁶ Id. at 14-16.

²⁷ Id. at 18-19.

²⁸ Id. at 27-28.

²⁹ Id. at 33-35.

³⁰ Id. at 38-39.

A conviction for the crimes of Illegal Sale of Dangerous Drugs and Possession of Dangerous Drugs and/or Paraphernalia requires proof of the *corpus delicti* of the crime beyond reasonable doubt. The identity and integrity of the seized drugs and/or paraphernalia must be established with moral certainty. This is done by proving each link in its unbroken chain of custody in accordance with the strict requirements of the law.³¹

To prove the unbroken chain of custody of the seized drugs and paraphernalia, the procedural requirements under Section 21, Article II of R.A. No. 9165³² must be complied with. This pertinently provides:

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

- (1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;
- (2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;
- (3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: Provided, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

³¹ *People v. Rivera*, G.R. No. 252886, March 15, 2021.

³² 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.

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It is thus mandated that: (1) the seized drugs be inventoried and photographed immediately after its seizure or confiscation; and (2) the physical inventory and photographing must be done in the presence of: (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the DOJ, all of whom shall be required to sign copies of the inventory and be given a copy thereof.³³

These requirements are mandatory and non-compliance tarnishes the identity, integrity, and credibility of the *corpus delicti* of the crime.³⁴ The law requires strict compliance with these procedural requirements to remove all unnecessary doubts on the evidence supporting a conviction.³⁵

Hence, the prosecution must prove the *corpus delicti* of the crime only by showing that the apprehending officers faithfully complied with the chain of custody requirements.³⁶ Its failure to do so casts serious doubt on the origin and identity of the seized drugs and paraphernalia, and strongly militates against a conviction.³⁷

This Court in *People v. Ismael*³⁸ therefore acquitted the accused considering the prosecution failed to prove that all the insulating witnesses were present during the inventory and photographing of the seized drugs. The same outcome was reached in *People v. Sood*³⁹ where the police officers similarly failed to ensure the presence of the insulating witnesses at the time and place of the accused's warrantless arrest and the subsequent seizure, inventory, and photographing of the dangerous drugs.

Non-compliance with Section 21, Article II of R.A. No. 9165 is allowed only in exceptional cases based on justifiable grounds. The prosecution cannot magically invoke the saving clause – that the integrity and evidentiary value of the seized items have been preserved – to automatically excuse police officers' non-compliance. It is indispensable to prove that (1) there is a justifiable ground for non-compliance, and (2) the integrity and evidentiary value of the seized items were properly preserved.⁴⁰ This justifiable ground must be proven as a fact.⁴¹

The presumption of regularity in the performance of official duties by police officers cannot apply when the law has been disregarded and violated.⁴²

³³ *People v. Manabat*, G.R. No. 242947, July 17, 2019.

³⁴ *People v. Que*, 824 Phil. 882, 896 (2018).

³⁵ *People v. Castillo*, G.R. No. 238339, August 7, 2019.

³⁶ *People v. Morales*, 630 Phil. 215, 228-229 (2010).

³⁷ *People v. Castillo*, G.R. No. 238339, August 7, 2019.

³⁸ 806 Phil. 21 (2017).

³⁹ 832 Phil. 850 (2018).

⁴⁰ *People v. Fulgado*, G.R. No. 246193, February 19, 2020.

⁴¹ *People v. Baptista*, G.R. No. 225783, August 20, 2018.

⁴² *Tolentino v. People*, G.R. No. 227217, February 12, 2020.

The failure to prove a sufficient justification for non-compliance magnifies the lack of concrete efforts on the part of police officers to adhere to the requirements of the law.⁴³

As applied in this case, We rule that a reversal of the assailed CA Decision is warranted.

It is undisputed that after accused-appellants were arrested, they were brought immediately to the barangay hall of San Isidro. It was there that the police officers conducted the marking and inventory of the seized drugs and paraphernalia in the presence of accused-appellants and Kgd. Dela Cruz.⁴⁴ This fact was admitted by PO3 Locsin who testified that the only third-party witness present during the inventory was Kgd. Dela Cruz.⁴⁵ Undeniably, the required witnesses from the media and DOJ were absent.

PO3 Locsin attempted to justify this lapse by explaining that the marking and inventory of the seized drugs and paraphernalia were conducted at the barangay hall instead of the place of arrest because the members of their team were being attacked and mauled by accused-appellants' relatives.⁴⁶ In addition, PO2 Palce testified that their immediate superior allegedly tried to contact a representative from the media, but no one came. They likewise attempted to call a representative from the DOJ but failed because a commotion happened during the arrest.⁴⁷

These explanations must be denied for being unsubstantiated and insufficient to justify the non-compliance with the mandatory witness requirement under Section 21, Article II of R.A. No. 9165.

It is noteworthy that PO3 Locsin did not even state in his direct testimony that they were attacked and mauled by accused-appellants' relatives during the buy-bust operation. It was only when he was confronted during cross-examination about their lapses that he claimed their team was attacked. Based on human experience, if a violent commotion truly occurred and the witness was actually attacked and mauled, this would normally be deemed significant enough to mention when asked to narrate an incident.

Moreover, this commotion that required the buy-bust team to exit immediately was not mentioned or proven in any reports or documentation related to the buy-bust operation. It was also not supported by any other evidence such as pictures, medical records, or sworn declarations and affidavits of members of the buy-bust team who were allegedly attacked and mauled. PO3 Locsin's claim therefore lacks supporting basis and cannot be

⁴³ Id.

⁴⁴ CA rollo, p. 78.

⁴⁵ Id. at 72.

⁴⁶ Id. at 72-73.

⁴⁷ Id. at 73.

considered.

PO2 Palce's allegation that they attempted to contact representatives from the media and DOJ was also unsubstantiated and unworthy of credence. He was not the person who allegedly tried to call the media representative since it was his immediate supervisor. His testimony on this matter was consequently hearsay and he could not provide reliable and complete details surrounding the alleged attempt.

PO2 Palce's second allegation that they attempted to call a representative from the DOJ but failed because a commotion occurred during the arrest must likewise be denied. Firstly, this claim was unsubstantiated and self-serving. He was not even the person who attempted to call the DOJ representative. He was thus expectedly unable to provide any details whatsoever to show how they exerted earnest efforts to ensure the representative's presence.

Secondly, PO2 Palce's excuse, on the contrary, proves that they did *not* exert diligent and earnest efforts to ensure the DOJ representative's timely presence at the marking and inventory stage. Their excuse involves an admission that they attempted to call the DOJ representative only when their team was already at the target area and carrying out the buy-bust operation.

If this excuse was true, it would be unreasonable and absurd to expect that the DOJ representative would even arrive on time to witness the seizure of the drugs and its marking and inventory immediately after. This only demonstrates that the police officers never had any real intention to ensure the presence of the DOJ representative during and after the buy-bust operation. It is emphasized that a buy-bust operation is a planned and scheduled event. If they wanted to ensure the witness' presence, they could have easily contacted him or her before they proceeded to carry out the buy-bust operation.

Regardless, even if the absence of the representatives from the DOJ and media are excused, the prosecution cannot claim that the presence of Kgd. Dela Cruz was substantial compliance with the law. Kgd. Dela Cruz was not present during the buy-bust operation and did not witness the seizure of the drugs and paraphernalia. He came to know of the accused-appellants and the seized items only at the barangay hall after the buy-bust operation.

He therefore did not personally see if the seized drugs and paraphernalia were really obtained from the accused-appellants. He was clearly an incompetent witness who could not confirm the identity and integrity of the seized items. Significantly, he testified that he did not know who among the accused-appellants the seized items belonged to:

On cross-examination, he [Kgd. Dela Cruz] reiterated that he was present during [the] inventory of the property seized together with the accused Norberto Casiguran, Kaori Takamatsu, and Christina Templa and

that he affixed his signature in the Receipt/Inventory of Property Seized prepared by PO3 Joel Locsin. However, he said that he is not aware from whom among the three (3) accused belong the pieces of drug evidence confiscated, such as, four (4) plastic sachets containing white crystalline substance, three (3) pieces of aluminum foil, two (2) pieces of rolled aluminum foil, and five (5) pieces of disposable lighters, which were later on found positive for methamphetamine hydrochloride. He said that it was the first time to see those pieces of evidence brought by PO3 Locsin. x x x.⁴⁸ (Emphasis and underscoring supplied)

Accordingly, Kgd. Dela Cruz' belated presence at the inventory stage served no purpose. It failed to achieve the objective of the law to protect persons against the pernicious practice of planting or switching evidence.⁴⁹ As pronounced by this Court in *People v. Castillo*,⁵⁰ his late presence already at the inventory stage reduced him to become a "passive [automaton], utilized merely to lend hollow legitimacy by belatedly affixing [his] signatures on final inventory documents despite lacking authentic knowledge on the items confronting [him]."⁵¹ He was a "[rubberstamp], oblivious to how the dangers sought to be avoided by [his] presence may have already transpired."⁵²

All told, the prosecution's failure to prove compliance with the mandatory witness requirement under Section 21, Article II of R.A. No. 9165 is fatal to its case. No justifiable grounds were also alleged and proven to excuse such non-compliance. This constituted a gap in the chain of custody and cast serious doubts on the identity and integrity of the *corpus delicti* of the crime. This Court must therefore acquit the accused-appellants for the failure to prove their guilt beyond reasonable doubt.

WHEREFORE, premises considered, the Decision dated May 7, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09157, which affirmed the Decision dated August 1, 2016 of the Regional Trial Court of Parañaque City, Branch 259, in Criminal Case Nos. 14-0348 to 51, is **REVERSED** and **SET ASIDE**. Accused-appellants Norberto Casiguran y Serbano and Kaori Takamatsu y Koh are hereby **ACQUITTED**, for failure to prove their guilt beyond reasonable doubt.

Accused-appellants are **ORDERED IMMEDIATELY RELEASED** from detention, unless they are confined for any other lawful cause. Let entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished to the Superintendents of the Correctional Institution for Women in Mandaluyong City, and the New Bilibid Prison in Muntinlupa City, for immediate implementation. They are **ORDERED** to **REPORT** to this Court within five (5) working days from

⁴⁸ Id. at 71.

⁴⁹ *People v. Sood*, supra note 39, at 368.

⁵⁰ Supra note 37.

⁵¹ Id.

⁵² Id.

receipt of this Resolution the action taken.

SO ORDERED.” (Inting, J. and Dimaampao, J., no part; Zalameda, J. and Lopez, M., J., designated additional Members per Raffle dated August 23, 2022.)

By authority of the Court:

Mis-DOCB-11
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court
GCR
17/8/23

Special & Appealed Cases Service
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COURT OF APPEALS
CA-G.R. CR HC No. 09157
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 259, 1700 Paranaque City
(Crim. Case Nos. 14-0348-49 & 14-0350)

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Director General
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Superintendent
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