



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **March 27, 2023** which reads as follows:*

“G.R. No. 255493 (PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee v. RUBEN DELA CRUZ y BOLAÑOS a.k.a. “KALBO”/“BEN” and ROBERTO DE GUZMAN y LOMA, Accused-Appellants). — The Court **NOTES** the manifestation dated February 20, 2023 of counsel for accused-appellant Roberto L. De Guzman, in compliance with the Resolution dated December 7, 2022, adopting the Appellant’s Brief dated August 31, 2018 filed before the Court of Appeals as his supplemental brief.

This Appeal¹ seeks to reverse and set aside the Decision² dated June 23, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 09823 entitled *People of the Philippines v. Ruben Dela Cruz a.k.a. “Kalbo”/“Ben” and Roberto De Guzman* finding appellants Ruben Dela Cruz y Bolaños a.k.a. “Kalbo”/“Ben” and Roberto De Guzman guilty of violation of Section 5, Article II of Republic Act No. 9165.³

¹ *Rollo*, pp. 22–23.

² *Id.* at 4–21. Penned by Associate Justice Tita Marilyn B. Payoyo-Villordon, concurred in by Associate Justices Celia C. Librea-Leagogo and Nina G. Antonio-Valenzuela.

³ Republic Act No. 9165, Sec.5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

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Antecedents

By Information dated February 13, 2013, appellants Ruben Dela Cruz (Dela Cruz) and Roberto De Guzman (De Guzman) were charged with violation of Section 5, Article II of Republic Act No. 9165 Section 5, Article II of Republic Act No. 9165 Section 5, Article II of Republic Act No. 9165, to wit:

Criminal Case No. 12355

That on or about the 12th day of February 2013, in the City of Legazpi, Philippines[,] and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, conspiring confederating and mutually helping each other, did then and there willfully, unlawfully[,] and feloniously sell and deliver one (1) heat-sealed transparent plastic sachet containing Methamphetamine Hydrochloride popularly known as shabu, a dangerous drug, weighing 0.069 gram in consideration of five hundred pesos (P500.00).

CONTRARY TO LAW.⁴

The case was raffled to the Regional Trial Court (RTC)-Branch 6, Legazpi City, and docketed as Criminal Case No. 12355. On arraignment, both appellants pleaded not guilty. Trial ensued.⁵

Version of the Prosecution

On February 11, 2013, around 1:00 p.m., a confidential informant went to the Philippine Drug Enforcement Agency (PDEA) Albay Provincial Office and reported to Agent Enrico Barba (Agent Barba) that Dela Cruz was engaged in drug activities, such as rampant sale of drugs and maintaining a drug den. The confidential informant then told Agent Barba that he could arrange a drug sale with Dela Cruz.⁶

The following day, February 12, 2013, around 5:00 p.m., the operatives of the PDEA Albay Enforcement Team and the officers of the Legazpi City Police Station planned the buy-bust operation. Agent Rowell Eduarte (Agent Eduarte) was designated as the poseur-buyer and Agent Dennis Benitez (Agent Benitez) as the arresting officer. The target location of the buy-bust

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

⁴ CA rollo, p. 340.

⁵ Rollo, p. 11.

⁶ Id. at 6.

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operation was Dela Cruz's house on Barriada Road, Barangay Bitano, Legazpi City. Agent Barba gave Agent Eduarte a PHP 500.00 bill with Serial No. CJ598015 as buy-bust money, which the latter marked with his initials "RDE". Agent Eduarte photocopied the buy-bust money and logged it in the PDEA Blotter Logbook. Lastly, it was agreed that Agent Eduarte would remove his helmet to signal that the sale of illegal drugs had been consummated.⁷

At 6:00 p.m. of the same day, the buy-bust team proceeded to the Legazpi City Police Station, their staging area, while the confidential informant went ahead and arranged the drug sale. Around 6:45 p.m., the buy-bust team proceeded to the target area and positioned themselves about 20 to 30 meters from Dela Cruz's house.⁸ On his way to the target area, Agent Eduarte picked up the confidential informant. The latter told Agent Eduarte that it was the right time to conduct the buy-bust operation since there were already a lot of tricycles and motorcycles parked near Dela Cruz's house.⁹

When Agent Eduarte and the confidential informant arrived at the target area, they saw both appellants standing outside the gate of Dela Cruz's house. The confidential informant told Dela Cruz that they were picking up an "item." At first, Dela Cruz only stared at Agent Eduarte, but when the confidential informant told him that Agent Eduarte was his brother-in-law, he asked how much they were going to buy. The confidential informant replied only PHP 500.00 worth. Dela Cruz then ordered De Guzman to hand in the item he had to Agent Eduarte.¹⁰

Thereafter, De Guzman retrieved something from his pocket and gave it to Dela Cruz who in turn handed a transparent plastic sachet to Agent Eduarte. For his part, Agent Eduarte examined it and got off his motorcycle to give the buy-bust money to Dela Cruz. Agent Eduarte thereafter removed his helmet.¹¹

On cue, Agent Benitez rushed to the scene. Meantime, Agent Eduarte grabbed Dela Cruz's hands while De Guzman ran towards the house shouting ["*May pulis! May pulis!*"]. De Guzman, however, was subdued by Agent Benitez in front of the house. The other team members, Senior Police Officer 1 Jeyhson Amaranto and Police Officer 3 Felino Hate helped Agent Benitez restrain De Guzman.¹²

⁷ *Id.*

⁸ *CA rollo*, p. 344.

⁹ *Rollo*, p. 6.

¹⁰ *Id.*

¹¹ *Id.* at 7.

¹² *Id.*

The buy-bust team decided to bring appellants inside the shaded portion of the house since it started raining.¹³ Around 7:00 p.m., Barangay Captain Joel Balinis, Barangay Kagawads Allan del Ayre, and Bernard Pacardo, Department of Justice Representative (DOJ) Jesus Arsenio Aragon, and media representative Darlan Barcelon arrived a few minutes later. In the presence of appellants and these witnesses, Agent Eduarte marked the transparent plastic sachet containing white crystalline substance which he bought from Dela Cruz as “RDE BB 2-12-13” while Agent Benitez searched both appellants. The search conducted by Agent Benitez yielded the PHP 500.00 bill buy-bust money from appellant and a cellphone from De Guzman.¹⁴ Meanwhile, Police Senior Inspector (PSI) Steve Dela Rosa took photographs of the items and inventory.¹⁵

The buy-bust team proceeded to the Legazpi City Police Station where Agent Eduarte and Agent Benitez conducted the inventory of the seized items in the presence of appellants and the witnesses, who all signed the Certificate of Inventory.¹⁶ With the exception of Agent Eduarte, they all proceeded to Camp General Simeon Ola.¹⁷

Agent Eduarte had in his possession the seized transparent plastic sachet containing white crystalline substance from the time of the arrest onward. From the Legazpi City Police Station, he personally delivered it to the Philippine National Police Crime Laboratory for examination.¹⁸ Around 11:30 p.m. of that same day, Forensic Chemist PSI Wilfredo I. Pabustan, Jr. (PSI Pabustan) received from Agent Eduarte a transparent plastic sachet marked “RDE BB 2-12-13”. He did the laboratory examination thereof and came out with positive results for methamphetamine hydrochloride or *shabu*. He entered his findings in his Chemistry Report No. D-14-2013.¹⁹

Version of the Defense

Appellants interposed denial and frame-up. They testified that on February 12, 2013, around 6:45 p.m., Dela Cruz was watching television in his house together with De Guzman and one Jonalyn Acuña. Suddenly, armed men barged in and ordered them to lie face down on the floor. When Dela Cruz stood up, he saw drug paraphernalia scattered on top of the table. The armed men continued rummaging through his house. Barangay officials later arrived. The barangay captain asked Dela Cruz if the items on the table were his. He refused to answer. Dela Cruz and De Guzman were later brought to the police station where the inventory was conducted. Not a single item though was shown to them. Worse, they were forced to sign the Certificate of

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *CA rollo*, p. 351.

¹⁶ *Rollo*, p. 345.

¹⁷ *Id.* at 7.

¹⁸ *Id.*

¹⁹ *Id.* at 7-8.

Inventory. Dela Cruz denied that he was the subject of a buy-bust operation that day because he was only inside his house celebrating the birthday of his son.²⁰

Ruling of the Trial Court

By Joint Judgment²¹ dated August 9, 2017, the trial court rendered a verdict of conviction, *viz.*:

WHEREFORE, based on the foregoing ratiocination, the Court hereby finds, thus:

1. In **Criminal Case No. 12355**, accused **Ruben dela Cruz a.k.a. Kalbo/Ben** and **Roberto de Guzman** are found **GUILTY** beyond reasonable doubt of Violation of Section 5, Article II of R.A. 9165 and hereby sentences each of them to **LIFE IMPRISONMENT** and to pay the **FINE** of **Php500,000.00**.

x x x

SO ORDERED.²² (Emphasis in the original)

It held that the prosecution was able to establish the presence of all the elements of illegal sale of dangerous drugs. Appellants' defenses of denial and frame-up were self-serving. They failed to establish any ill motive on the part of the apprehending officers. Lastly, the chain of custody rule was properly observed by the apprehending officers.²³

Proceedings before the Court of Appeals

On appeal, appellants faulted the trial court for rendering a verdict of conviction.²⁴ They alleged that: *first*, their warrantless arrest was illegal; *second*, the prosecution failed to prove beyond reasonable doubt the elements of illegal sale of dangerous drugs; and *third*, they faulted the trial court for finding them guilty despite the broken chain of custody of the seized illegal substance.²⁵

The People, through Assistant Solicitor General Vida G. San Vicente and Associate Solicitor Cesar Augustine N. Mindaro countered that the prosecution had proven appellants' guilt beyond reasonable doubt.²⁶ All the elements of illegal sale of dangerous drugs were present in the case. Too, the

²⁰ *Id.* at 8.

²¹ CA *rollo*, pp. 339–354. Penned by Presiding Judge Elmer M. Lanuzo.

²² *Id.* at 353–353.

²³ *Id.* at 346–354.

²⁴ *Id.* at 321–336.

²⁵ *Id.* at 329–335.

²⁶ *Id.* at 355–378.

chain of custody rule was observed, and the integrity and identity of the item seized, were preserved.²⁷

Ruling of the Court of Appeals

By its assailed Decision dated June 23, 2020, the Court of Appeals affirmed. It held that appellants were arrested *in flagrante delicto*. A buy-bust operation is a form of entrapment in which the violator is caught *in flagrante delicto*, which is a lawful form of warrantless arrest. Further, the prosecution proved all the elements of illegal sale of dangerous drugs. Finally, the apprehending officers properly observed the chain of custody rule. Consequently, the prosecution was able to prove that the integrity and evidentiary value of the seized illegal drugs were preserved.²⁸

The Present Appeal

Appellants now seeks affirmative relief from the Court and prays anew for his acquittal.²⁹ In accordance with Resolution³⁰ dated April 26, 2021, both the OSG³¹ and Dela Cruz³² manifested that in lieu of supplemental briefs, they are adopting their respective briefs filed before the Court of Appeals.

Ruling

The appeal is meritorious.

On appellants' warrantless arrest, suffice it to state that any objection involving arrest or the procedure for acquiring jurisdiction over the person of the accused must be made before arraignment; otherwise, the objection is deemed waived.³³ The legality of an arrest affects only the jurisdiction of the court over the person of the accused, and any defect in the arrest may be deemed cured when they voluntarily submit to the jurisdiction of the trial court.³⁴ The accused's voluntary submission to the jurisdiction of the court and their active participation during the trial cures any defect or irregularity that may have attended their arrest.³⁵

²⁷ *Id.* at 364–376.

²⁸ *Rollo*, pp. 10–20.

²⁹ Appellant Dela Cruz's Notice of Appeal dated July 15, 2020; *id.* at 22–23 and Appellant De Guzman's Notice of Appeal dated September 1, 2020; *id.* at 25–26.

³⁰ *Id.* at 32–33.

³¹ Plaintiff-Appellee's Manifestation in lieu of Supplemental Brief dated April 26, 2021.

³² Temporary *rollo*, Accused-Appellant's Manifestation in lieu of Supplemental Brief dated February 6, 2023.

³³ *Lapi v. People*, G.R. No. 210731, February 13, 2019, [Per J. Leonen, Third Division].

³⁴ See *People v. Alunday*, 586 Phil. 120, 133 (2008), [Per J. Chico-Nazario, Third Division].

³⁵ *People v. Bacula-An*, 445 Phil. 729, (2003), [Per J. Austria-Martinez, *En Banc*].

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Here, appellants did not raise any objection to their warrantless arrest before they got arraigned. In fact, they voluntarily submitted to the court's jurisdiction by entering a plea of not guilty, and thereafter, actively participated in the trial. As it was, their present challenge against their warrantless arrest came too late in the day as they raised it only for the first time on appeal before the Court of Appeals. This belated stance certainly cannot undo their waiver and the consequent proceedings which took place below as well as the appellate proceedings before the Court of Appeals.

The failure of the appellants though to timely object to the illegality of their arrest does not preclude them from questioning the admissibility of the evidence seized as an incident of the warrantless arrest.³⁶ Its inadmissibility is not affected when the accused fails to timely question the court's jurisdiction over their person. Jurisdiction over the person of the accused and the constitutional inadmissibility of evidence are separate and mutually exclusive consequences of an illegal arrest.³⁷

Thus, the Court moves on to the core issue: *did the apprehending officers comply with the chain of custody rule in handling the illegal drugs in question?*

The Court rules in the negative.

Appellants were charged with illegal sale of dangerous drugs allegedly committed on February 11, 2013. Therefore, the governing law is Republic Act No. 9165 prior to its amendment by Republic Act No. 10640 on August 7, 2014.

In the crime of sale of dangerous drugs, the prosecution must be able to successfully prove the following elements: (1) the identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. Similarly, it is essential that the transaction or sale be proved to have actually taken place coupled with the presentation in court of evidence of *corpus delicti*.³⁸

In illegal drug cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution, therefore, is tasked to establish that the substance illegally possessed by appellant is the same substance presented before the court.³⁹ It is the prosecution's onus to prove every link in the chain of custody — from the time the drug is seized from the accused, until the time it is presented in court as evidence.⁴⁰ The saving clause under Section 5, Article II

³⁶ See *Homar v. People*, 768 Phil. 195, 209 (2015), [Per J. Brion, Second Division].

³⁷ *Veridiano v. People*, 810 Phil. 642, 654 (2017), [Per J. Leonen, Second Division].

³⁸ *People v. Roble*, 663 Phil. 147, 157 (2011), [Per J. Velasco Jr., First Division].

³⁹ *People v. Miranda*, G.R. No. 218126, July 10, 2019, [Per J. Lazaro-Javier, Second Division].

⁴⁰ *People v. Dumagay*, 825 Phil. 726, 739 (2018), [Per J. Del Castillo, First Division].

of Republic Act No. 9165.⁴¹ Implementing Rules and Regulations commands that non-compliance with the prescribed requirement shall not invalidate the seizure and custody of the items provided such non-compliance is justified and the integrity and evidentiary value of the seized items are properly preserved by the apprehending officers.⁴²

Generally, there are four links in the chain of custody of the seized illegal drug: (i) its seizure and marking, if practicable, from the accused, by the apprehending officer; (ii) its turnover by the apprehending officer to the investigating officer; (iii) its turnover by the investigating officer to the forensic chemist for examination; and (iv) its turnover by the forensic chemist to the court.⁴³

The Court shall focus on the first and fourth links.

The *first link* refers to the marking, inventory, and taking of photograph of the seized items. Under the original provision of Section 21, after seizure and confiscation of the drugs, the apprehending team is required to *immediately conduct a physical inventory and photograph* of the same in the presence of: (1) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel; (2) a representative from the media; (3) the DOJ; and (4) any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.⁴⁴

In the recent case of *People v. Casa*⁴⁵, the Court finally settled that, in case of warrantless seizures, the inventory and taking of photographs generally must be conducted *at the place of seizure*. The exception to this rule — where the physical inventory and taking of photographs of the seized item may be conducted at the nearest police station or at the nearest office of the apprehending officer or team — is when the police officers provide justification that: (1) it is not practicable to conduct the same at the place of seizure, or (2) the items seized are threatened by immediate or extreme danger at the place of seizure.

⁴¹ Section 21 (a). The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; **Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items**.] (Emphasis and underscoring supplied).

⁴² See *People v. Frius*, 853 Phil. 377, (2019), [Per J. Lazaro-Javier, Second Division].

⁴³ *People v. De Leon*, G.R. No. 227867, June 26, 2019, [Per J. Del Castillo, First Division].

⁴⁴ See *People v. Mola*, 830 Phil. 364, 377 (2018), [Per J. Peralta, Second Division].

⁴⁵ G.R. No. 254208, August 16, 2022, [Per C.J. Gesmundo, *En Banc*].

Further, Republic Act No. 9165 recognizes that the conduct of the inventory at the nearest police station or at the nearest office of the apprehending officer/team is not absolute, unbridled, and unrestrained because of the phrase “*whichever is practicable*.” Absent such “practicable” reason, then the police officers are required to conduct the inventory and taking of photographs of the seized items at the place of seizure.⁴⁶

Here, the inventory of the seized items was done at the Legazpi City Police Station and not at Dela Cruz’s house, the place of the arrest.⁴⁷ Records show that the apprehending officers did not proffer any explanation as to why they conducted the inventory at the Legazpi City Police Station. It was also not clear whether the Legazpi City Police Station was the nearest police station from the place of arrest. The apprehending officers did not even recognize this procedural lapse in their affidavits and testimonies. On this score, the first link is deemed to have been breached.

The *fourth link* refers to the turnover and submission of the dangerous drug from the forensic chemist to the court.⁴⁸ In *People v. Omamos*,⁴⁹ the Court stressed that it is of paramount necessity that the forensic chemist testifies on the details pertaining to the handling and analysis of the dangerous drug submitted for examination *i.e.*, when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen. Further, in *People v. Pajarin*,⁵⁰ the Court decreed:

...as a rule, the police chemist who examines a seized substance should ordinarily testify that he received the seized article as marked, properly sealed[,] and intact; that he resealed it after examination of the content; and that he placed his own marking on the same to ensure that it could not be tampered pending trial.⁵¹

Here, the Court finds that the chain of custody has also been breached on the fourth link – from the time the laboratory examination was concluded until the illegal drugs were brought to the trial court. Records are bereft of any information on how the illegal drugs were kept and who had custody thereof after the conclusion of its examination. PSI Pabustan did not discuss how he safeguarded the illegal drugs after examination and before they reached the court. He simply narrated that after conducting the laboratory examination, he

⁴⁶ See *People v. Encarnacion*, G.R. No. 250303, December 7, 2022, *citing id.*

⁴⁷ *Rollo*, p. 7.

⁴⁸ See *People v. Hementiza*, 807 Phil. 1017, 1030 (2017), [Per J. Mendoza, Second Division].

⁴⁹ G.R. No. 223036, July 10, 2019, [Per J. Lazaro-Javier, Second Division].

⁵⁰ 654 Phil. 461 (2011), [Per J. Abad, Second Division].

⁵¹ *Id.* at 466.

delivered the seized items to the evidence custodian.⁵² The Court notes that the evidence custodian was not presented to testify in court. Their identity was not revealed, nor was their name disclosed in the chain of custody.

In *People v. Alon-Alon*,⁵³ the Court held that the failure to present the evidence custodian is a clear disregard of the mandate that every link in the chain must testify, describing the condition of the seized item when it was delivered, and the precautions taken to ensure its integrity. Similarly, in *Mascariñas v. People*⁵⁴, the Court found that the fourth link in the chain of custody was broken when the identity of the evidence custodian was not revealed and his or her name is not reflected in the chain of custody.

The chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. Ideally, the evidence presented by the prosecution should include testimony about every link in the chain, from the moment the item was picked up to the time it was offered into evidence. The prosecution should present evidence establishing the chain of custody in such a way that *“every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain.”* In addition, these witnesses should describe the precautions taken to ensure that there had been no change in the condition of the item and that there had been no opportunity for someone not in the chain to have possession of the same.⁵⁵

Verily, these lapses in the chain of custody rule had cast serious doubts on the identity and the integrity of the *corpus delicti*.⁵⁶ Stricter adherence to the chain of custody requirements is called for when only a miniscule amount of dangerous drugs is involved, such as the 0.069 gram of methamphetamine hydrochloride involved in this case.⁵⁷

Since compliance with the procedure set forth in Section 21 of Republic Act No. 9165 is determinative of the integrity and evidentiary value of the *corpus delicti* and ultimately, the fate of the liberty of the accused, the fact that any issue regarding the same was not raised, or even threshed out in the trial courts would not preclude the appellate court, including the Court, from fully examining the records of the case if only to ascertain whether the procedure had been completely complied with, and if not, whether justifiable reasons exist to excuse any deviation. If no such reasons exist, then it is the

⁵² Rollo, pp. 134–156. TSN of Prosecution Witness PSI Wilfredo Pabustan, Jr. dated October 28, 2015.

⁵³ G.R. No. 237803, November 27, 2019, [Per J. Zalmieda, Third Division].

⁵⁴ G.R. No. 257486, December 7, 2022, [Notice, First Division].

⁵⁵ See *Mallillin v. People*, 576 Phil. 576, 587 (2008), [Per J. Tinga, Second Division].

⁵⁶ See *People v. Catipan*, G.R. No. 252691, June 14, 2021, [Notice, First Division].

⁵⁷ See *People v. De Guzman*, G.R. No. 256461, November 29, 2022, [Notice, First Division].

FOR THESE REASONS, the Appeal is **GRANTED**. The Decision dated June 23, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 09823 is **REVERSED**. Appellants Ruben Dela Cruz y Bolaños a.k.a. "Kalbo"/"Ben" and Roberto De Guzman y Loma are **ACQUITTED** of violation of Section 5, Article II of Republic Act No. 9165 in Criminal Case No. 12355.

The Director General of the Bureau of Corrections, Muntinlupa City is **ORDERED** to a) immediately release Ruben Dela Cruz y Bolaños a.k.a. "Kalbo"/"Ben" and Roberto De Guzman y Loma from custody unless they being held for some other lawful cause, and (b) to inform the Court of the action taken within five (5) days from notice of this Resolution.

Let entry of final judgment be issued immediately.

SO ORDERED." (*Leonen, SAJ, on official leave*)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court^{mm}_{7/28}

28 JUL 2023

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RUBEN DELA CRUZ y BOLAÑOS (x)
ROBERTO DE GUZMAN y LOMA (x)
Accused-Appellants
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

Decision

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G.R. No. 255493
March 27, 2023

THE SUPERINTENDENT (x)
New Bilibid Prison
Muntinlupa City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 6
Legaspi City, Albay
(Crim. Case No. 12355)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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