



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 13, 2023** which reads as follows:*

**“G.R. No. 255596 (People of the Philippines, Plaintiff-Appellee v. Christopher Garnica y Medrano and Lemuel Baliña y Tandico, Accused-Appellants).** — This Court **NOTES:**

1. the Letter dated February 17, 2023 of CSIInsp. Arlene I. Casilihan, Deputy Chief, Inmates Documents and Processing Division, Bureau of Corrections, Muntinlupa City, in compliance with the Resolution dated December 7, 2022, confirming the confinement of accused-appellants Christopher Garnica y Medrano and Lemuel Baliña y Tandico at the New Bilibid Prison, Muntinlupa City since April 19, 2019;

2. the Letter dated March 2, 2023 of CCIInsp. Josemari D. Alambro, Acting Superintendent, Maximum Security Compound-New Bilibid Prison, Muntinlupa City, confirming the confinement thereof of accused-appellant Lemuel Baliña-Tandico since April 19, 2019; and

3. the Letter dated March 2, 2023 of CCIInsp. Diomedes C. Dador Jr., MCSA, Acting Superintendent, Medium Security Compound-New Bilibid Prison, Muntinlupa City, acknowledging receipt on March 2, 2023 of a copy of the Resolution dated January 16, 2023.

This Court resolves an appeal assailing the Decision<sup>1</sup> rendered by the Court of Appeals (CA) which affirmed the Joint Judgment<sup>2</sup> of Regional Trial Court (RTC) finding: (1) accused-appellant Christopher Garnica y Medrano (*Garnica*) guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act (R.A.) No. 9165; (2) accused-appellant Lemuel Baliña y Tandico (*Baliña*) guilty beyond reasonable doubt of violation of Section 11,

<sup>1</sup> *Rollio*, pp. 4-31. The June 5, 2020 Decision in CA-G.R. CR-HC No. 12644 was penned by Associate Justice Celia C. Librea-Leagogo, and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Tita Marilyn B. Payoyo-Villordon of Fourth Division, Court of Appeals, Manila.

<sup>2</sup> *CA rollo*, pp. 47-55. The March 7, 2019 Joint Judgment in Criminal Case Nos. R-QZN-19-00051-CR, R-QZN-19-00052-CR and R-QZN-19-00053-CR was penned by Presiding Judge Nadine Jessica Corazon J. Fama of Branch 79, Regional Trial Court, Quezon City.

Article II of R.A. No. 9165; and (3) Baliña and Garnica guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165.

In an Information dated December 18, 2018 in Criminal Case No. R-QZN-19-00051-CR, Garnica was charged with violation of Section 11, Article II of R.A. No. 9165, as follows:

That on or about the **12<sup>th</sup> day of December, 2018** in Quezon City, Philippines, the above-named accused, without any authority of law, did then and there, willfully, unlawfully and knowingly have in his possession and under his control (o)ne (1) transparent plastic sachet with markings **EM-CG 12-12-18**, containing one point sixty two (**1.62**) grams of **Marijuana**, a dangerous drug.

**CONTRARY TO LAW.**<sup>3</sup> (Emphasis in the original)

In a separate Information dated December 18, 2018 in Criminal Case No. R-QZN-19-00052-CR, Baliña was also charged with a violation of Section 11, Article II of R.A. No. 9165, which reads:

That on or about the **12<sup>th</sup> day of December, 2018**, in Quezon City, Philippines, the above-named accused, without any authority of law, did then and there, willfully, unlawfully and knowingly have in his possession and under his control (o)ne (1) transparent plastic sachet with markings **EM-LB-1 12-12-18**, containing one point forty nine (**1.49**) grams of **Marijuana**, a dangerous drug.

**CONTRARY TO LAW.**<sup>4</sup> (Emphasis in the original)

Both Garnica and Baliña were also charged with violation of Section 5, Article II, of R.A. No. 9165 in an Information dated December 18, 2018 in Criminal Case No. R-QZN-19-00053-CR:

That on or about the **12<sup>th</sup> day of December, 2018**, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, without lawful authority, did then and there, willfully, unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport or act as a broker in said transaction, one (1) rolled transparent plastic sachet with markings **BB-EM-LB- 12-12-18**, containing **sixty five point eighty six (65.85) grams** of **Marijuana**, a dangerous drug.

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

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<sup>3</sup> *Rollo*, pp. 5-6.

<sup>4</sup> *Id.* at 6.

<sup>5</sup> *Id.*

During arraignment, Garnica and Baliña pleaded “not guilty.”<sup>6</sup> The RTC conducted pre-trial and issued a Pre-Trial Order dated January 15, 2019, wherein the following were stipulated upon:

1. The crimes charged against Garnica and Baliña were committed within the territorial jurisdiction of the court;
2. The identities of Garnica and Baliña as the persons charged in the cases;
3. Garnica and Baliña were arrested without warrants of arrest or a search warrant;
4. PCI Bernardo Roque (“PCI Roque,” for brevity) received from PO1 Eugene Miguel (“PO1 Miguel,” for brevity) a request for laboratory examination, (1) medium rolled plastic sachet containing dried suspected marijuana leaves with marking “BB-EM-LB 12-12-18” and (2) resealable transparent plastic sachets containing dried suspected marijuana leaves with markings “EM-LB-1 12-12-18” and “EM-CG 12-12-18” with signatures; upon receipt of the request and the specimens, PCI Roque conducted qualitative examination of the submitted specimens and found that they were positive for the presence of marijuana, a dangerous drug;
5. PCI Roque prepared Chemistry Report No. D-2984-18;
6. After examination, PCI Roque placed the specimens he examined in a transparent plastic bag, sealed it with a masking tape, placed his markings “D-2984-18 BRR” with his signature, and turned the same over to evidence custodian PO2 Junia Tuccad (“PO2 Tuccad,” for brevity);
7. PO2 Tuccad placed them in the evidence room of the QCPD Crime Laboratory;
8. Pursuant to the subpoena, PCI Roque retrieved from PO2 Tuccad the transparent plastic bag containing the specimens and submitted [them] to the court on January 15, 2019;
9. PCI Roque can identify the specimens subject of his examination;
10. PCI Roque has no personal knowledge of the facts and circumstances of the arrest of [Garnica and Baliña];
11. PCI Roque has no personal knowledge as to the recovery of the specimens turned over to him for examination;
12. SPO2 Errol Tejares (“SPO2 Tejares,” for brevity) was the investigator in these cases;
13. During the course of the investigation, PO1 Miguel turned over to SPO2 Tejares the subject specimens of these cases;
14. SPO2 Tejares prepared the Referral Letter, Affidavit of Arrest/Poseur-Buyer, Affidavit of Arrest/Back-up, Affidavit of Investigator on-case, Request for Laboratory Examination, Request for Drug Test, Inventory of Seized Evidence Form, Chain of Custody Form, Arrest and Booking Sheets, Spot Report, Coordination, Pre-Operation Report and Certificate of No Available Witness;
15. SPO2 Tejares can identify the documents he prepared, [Garnica and Baliña] and the specimens subject of his investigation;
16. After investigation, SPO2 Tejares returned to PO1 Miguel the subject specimens;
17. SPO2 Tejares has no personal knowledge [about] the facts and circumstances surrounding the arrest of [Garnica and Baliña];

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

18. SPO2 Tejares has no personal knowledge [about] the recovery of the specimens presented to him for investigation.<sup>7</sup>

Thereafter, trial on the merits ensued.<sup>8</sup> The prosecution presented Police Officer I Eugene Miguel (*POI Miguel*) as witness. The RTC summarized the version of the prosecution as follows:

The prosecution presented Police Officer I Eugene Miguel to establish the charges against the accused. The presentation of Senior Police Officer 2 Errol Tejares and Police Chief Inspector Bernardo Roque were (sic) dispensed with, in view of the stipulations of the prosecution and the defense during the pre-trial.

From the evidence of the prosecution, it appears that, on December 12, 2018, at around 10:00 o'clock in the morning, a confidential informant reported to the Station Drug Enforcement Unit (SDEU) of the Quezon City Police District (QCPD) Police Station 7, the illegal drug activities of a certain Lemuel, who was selling illegal drugs through Messenger.

Consequently, a team was formed to conduct a buy-bust operation against alias Lemuel. PO1 Eugene Manuel was tasked to pose as a buyer of illegal drugs in the planned operation, while SPO2 Jesster Dela Cueva was assigned as his back-up. A genuine Five hundred peso (P500.00) bill with serial number AV383568 and three (3) bogus One thousand peso (P1,000.00) bills were prepared as buy-bust money. A Coordination Form and a Pre-Operational Report were also prepared.

The confidential informant was instructed to contact alias Lemuel via Messenger, and tell him that someone would purchase marijuana worth Four thousand pesos (P4,000.00) from him. Alias Lemuel agreed to meet for the transaction at around 2:00 o'clock in the afternoon.

Thereafter, the buy-bust team, together with the confidential informant, boarded a private vehicle and headed to the Metro Rail Transit (MRT) Santolan Station to meet alias Lemuel for the drug deal. Upon reaching the area, the buy-bust team waited for about an hour, until the confidential informant pointed to the two (2) accused, and he identified one of them as their subject.

The two accused approached the confidential informant and the latter introduced PO1 Eugene Manuel to accused Lemuel Baliña as a buyer of illegal drugs. PO1 Eugene Manuel asked accused Lemuel Baliña, 'Tol, dala mo ba? Who replied 'Oo naman, tol.' PO1 Eugene Manuel then handed the buy-bust money to accused Lemuel Baliña, and the latter put it inside his right front pocket. Afterwards, accused Lemuel Baliña instructed his companion, accused Christopher Garnica, 'Tol, akin na 'yung dala mong bag. Nandiyan 'yung weeds na order niya sa atin.' Accused Christopher Garnica handed a red Nike backpack to accused Lemuel Baliña, and the latter brought out from it, a rolled plastic sachet of marijuana. Accused Lemuel Baliña then gave the rolled plastic sachet (of) marijuana to PO1 Eugene Manuel.

<sup>7</sup> *Id.* at 6-7.

<sup>8</sup> *Id.* at 7.

At that instance, PO1 Eugene Manuel scratched his head, which was the signal agreed upon by the buy-bust team to indicate the consummation of the drug deal. PO1 Eugene Manuel apprehended the two (2) accused, and he confiscated another plastic sachet of marijuana from accused Lemuel Baliña, and a plastic of marijuana from accused Christopher Garnica.

The purchased and seized drugs were marked at the area of arrest, and in the presence of Barangay Kagawad Mary Jane Medina of Barangay Camp Aguinaldo, media representative Alex Mendoza, and Assistant City Prosecutor Nilda Ordonio. PO1 Eugene Miguel placed his markings 'BB-EM-LB 12-12-18' on the plastic sachet of marijuana which he purchased from the accused. PO1 Eugene Miguel also put his markings 'EM-LB-1 12-12-18' on the plastic sachet of marijuana which he seized from accused Lemuel Baliña, and 'EM-CG 12-12-18', on the plastic sachet of marijuana which he confiscated from accused Christopher Garnica.

After the marking of the recovered items, an inventory was prepared. The inventory was also signed by Barangay Kagawad Mary Jane Medina, media representative Alex Mendoza, and Department of Justice representative, Assistant City Prosecutor Nilda Ordonio. Photographs were likewise taken.

Subsequently, the accused and the recovered items were brought to the police station. PO1 Eugene Miguel kept the purchased and seized items in his possession while on the way to the station.

Upon reaching the station PO1 Eugene Miguel turned over the purchased and confiscated drugs to the investigator on duty, SPO2 Errol Tejares, as shown by the Chain of Custody Form. SPO2 Errol Tejares prepared the Affidavit of Arrest/Poseur Buyer, Affidavit of Arrest/Back-up, Affidavit of Investigator on-case, Request for Laboratory Examination, Request for Drug Test, Chain of Custody Form, Arrest and Booking Sheets of the accused, Spot Report, and Certification of No Available Witness.

Afterwards, the purchased and seized drugs were submitted to the QCPD Laboratory, and they were received by the Forensic Chemist on duty, PCI Bernardo Roque, as reflected in the Chain of Custody Form.

PCI Bernardo Roque received from PO1 Eugene Miguel, the Request for Laboratory Examination, one (1) medium rolled plastic sachet of dried suspected marijuana leaves with markings 'BB-EM-LB 12-12-18', and two (2) re-sealable transparent plastic sachets of dried suspected marijuana leaves with markings 'EM-LB-1 12-12-18', and 'EM-CG 12-12-18', all with signature.

PCI Bernardo Roque conducted a qualitative examination of the specimens submitted to him, and he found that they were positive for the presence of Marijuana, a dangerous drug. PCI Bernardo Roque prepared Chemistry Report No. D-2984-18, indicating his findings.

After his examination, PCI Bernardo Roque placed the specimens he examined in a transparent plastic bag, sealed it with a piece of masking tape, placed his markings 'D-2984-18 BRR' and his signature thereon, and then he turned it over to the evidence custodian of their office, PO2 Junia Tuccad. Upon receiving the sealed specimens, PO2 Junia Tuccad placed them in the evidence room of the QCPD Crime Laboratory.

Pursuant to the subpoena he received, PCI Bernardo Roque retrieved the sealed specimens from PO2 Junia Tuccad, in the same condition when they were turned over to her, and he submitted them to the court on January 15, 2019.<sup>9</sup>

The defense presented Garnica and Baliña. The RTC summarized their testimonies as follows:

The two (2) accused vehemently denied the charges against them. According to them, they were apprehended at the MRT Santolan Station on December 12, 2018, at around 1:00 o'clock in the afternoon, while they were on their way home. Earlier, accused Christopher Garnica had requested his childhood friend, accused Lemuel Baliña to accompany him to the MRT Santolan Station, where accused Christopher Garnica would drop off Rica, the girl he was courting. After dropping off Rica at the MRT Santolan Station, the two (2) accused had a snack at the ground floor. After eating, the two (2) accused went to the upper floor of the MRT Santolan Station, intending to go home.

Suddenly, two (2) men in civilian attire approached and handcuffed the accused, and they declared that the accused were selling marijuana at the MRT Santolan Station. The two (2) accused denied doing anything wrong. The two (2) accused were then made to sit at the side of the station. The men brought out marijuana and money from a bag, and they laid them out in front of the accused.

The persons in civilian attire called barangay officials and a media representative to the MRT Santolan Station, and photographs were subsequently taken. Thereafter, the accused were brought to the QCPD Police Station 7.<sup>10</sup>

The RTC rendered a Joint Judgment<sup>11</sup> finding Garnica and Baliña guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of R.A. No. 9165:

**WHEREFORE**, judgment is hereby rendered as follows:

1. In Criminal Case No. R-QZN-19-00051-CR, accused **CHRISTOPHER GARNICA y MEDRANO is hereby found GUILTY beyond reasonable doubt** of violation of Section 11, Article II of Republic Act No. 9165 and he is hereby sentenced to suffer imprisonment of 12 years and 1 day as minimum to fourteen (14) years and eight (8) months as maximum and to pay a fine of Three hundred thousand ([PHP] 300,000.00) pesos (sic);
2. In Criminal Case No. R-QZN-19-00052-CR, accused **LEMUEL BALIÑA y TANDICO is hereby found GUILTY beyond reasonable doubt** of violation of Section 11, Article II of Republic Act No. 9165 and he is hereby sentenced to suffer

<sup>9</sup> *Id.* at 7-9.

<sup>10</sup> *Id.* at 10.

<sup>11</sup> *CA rollo*, pp. 47-55.

- imprisonment of 12 years and 1 day as minimum to fourteen (14) years and eight (8) months as maximum and to pay a fine of Three hundred thousand ([PHP] 300,000.00) pesos (sic); and
3. In Criminal Case No. R-QZN-19-00053-CR, accused **LEMUEL BALIÑA y TANDICO and CHRISTOPHER GARNICA y MEDRANO** are hereby found GUILTY beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165 and they are hereby each sentenced to suffer life imprisonment and to pay a fine of Five hundred thousand pesos ([PHP] 500,000.00).

The Branch Clerk of Court is directed to immediately turn over to the Chief of PDEA Crime Laboratory, the subject drugs covered by Chemistry Report No. D-2984-18, which are confiscated in favor of the government, to be disposed of in strict conformity with the provisions of R[.]A[.] No. 9165 and its implementing rules and regulations on the matter.

The Five hundred peso ([PHP] 500.00) bill with serial number AV383568 is confiscated in favor of the government and the Branch Clerk of court is directed to deposit/remit it to the General Fund.

**SO ORDERED.**<sup>12</sup> (Emphasis in the original)

The RTC found the presence of all the elements of the offense and concluded that the police officers caught Garnica and Baliña *in flagrante delicto* selling marijuana during a buy-bust operation.<sup>13</sup> Garnica and Baliña filed a Notice of Appeal<sup>14</sup> dated March 7, 2019.

On appeal, the CA affirmed the RTC Joint Judgment.<sup>15</sup>

Hence, this appeal.<sup>16</sup>

In sum, Garnica and Baliña ultimately contend that the prosecution failed to prove their guilt beyond reasonable doubt. They argue that the buy-bust operation was of doubtful existence,<sup>17</sup> the arresting officers failed to comply with the requirements for the proper custody of the seized dangerous drugs under Section 21 of R.A. No. 9165, as amended,<sup>18</sup> and the arresting officers failed to prove the integrity and identity of the seized drugs.<sup>19</sup>

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<sup>12</sup> *Id.* at 54–55.

<sup>13</sup> *Id.* at 51–55.

<sup>14</sup> *Id.* at 10.

<sup>15</sup> *Rollo*, pp. 4–31.

<sup>16</sup> *Id.* at 45–47.

<sup>17</sup> *CA rollo*, p. 35.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 36.

### Issue

Whether the CA correctly affirmed the RTC's Joint Judgment finding Christopher Garnica y Medrano and Lemuel Baliña y Tandico guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of R.A. No. 9165.

### This Court's Ruling

After a thorough review of the records, We are convinced that Garnica and Baliña should be acquitted for failure of the prosecution to prove their guilt beyond reasonable doubt for violation of Sections 5 and 11, Article II of R.A. 9165.

Under Section 5, Article II of R.A. No. 9165, any person, who, without lawful authority, shall sell any dangerous drug, regardless of quantity and purity, shall be guilty of illegal sale of dangerous drugs. Specifically, to be convicted of this charge, the prosecution must prove the following with moral certainty: (1) the identity of the seller and the buyer; (2) the object and consideration of the sale; and (3) the delivery of the thing sold and the payment therefor.<sup>20</sup>

Meanwhile, to be convicted of illegal possession of dangerous drugs, the prosecution must establish the following elements: "(1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug."<sup>21</sup>

Proof of the elements for Sections 5 and 11 usually rests on a valid buy-bust operation. This method of entrapment, utilized in cases where there is no search warrant issued against the suspect, is defined in jurisprudence as follows:

A buy-bust operation is "a form of entrapment, in which the violator is caught *in flagrante delicto* and the police officers conducting the operation are not only authorized but duty-bound to apprehend the violator and to search him for anything that may have been part of or used in the commission of the crime." However, where there really was no buy-bust operation conducted, it cannot be denied that the elements for illegal sale of prohibited drugs cannot be duly proved despite the presumption of regularity in the performance of official duty and the seeming straightforward testimony in court by the arresting police officers. After all,

<sup>20</sup> *People v. Manabat*, G.R. No. 242947, July 17, 2019 [Per J. Caguioa, Second Division].

<sup>21</sup> *People v. Dela Cruz*, G.R. No. 229053, July 17, 2019 [Per J. Leonen, Third Division] at 9, citing *People v. Morales*, 630 Phil. 215, 118 (2010) [Per J. Del Castillo, Second Division]. This citation refers to the copy of this Decision uploaded to the Supreme Court website.



the indictment for illegal sale of prohibited drugs will not have a leg to stand on.<sup>22</sup> (Citation omitted)

Although it is a general rule that the RTC's findings of fact are entitled to great weight and will not be disturbed on appeal, this does not apply where facts of weight and substance have been overlooked, misapprehended, or misapplied in a case under appeal.<sup>23</sup> In this case, several circumstances in the facts warrant Garnica and Baliña's acquittal.

To preserve the identity and integrity of seized items during seizure and marking, this Court is guided by Section 21(1), Article II of R.A. No. 9165, which states:

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[.]* (Emphasis supplied)

R.A. No. 10640, which took effect on August 7, 2014, amended Section 21, which now reads:

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

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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

<sup>22</sup> *People v. Dela Cruz*, 666 Phil. 593, 604-605 (2011) [Per J. Velasco, First Division].

<sup>23</sup> *People v. Pedronan*, 452 Phil. 226, 233 (2003) [Per J. Ynares-Santiago, First Division]. (Citation omitted)

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.

Since Garnica and Baliña allegedly committed the crime on December 12, 2018, or after the effectivity of R.A. No. 10640, this Court shall apply Section 21(1), as amended.

In cases involving dangerous drugs, the identity of the dangerous drug, which is evidence of the *corpus delicti*, must be established beyond reasonable doubt.<sup>24</sup> At all times, the prosecution must endeavor to protect the identity of the dangerous drugs by establishing an unbroken chain of custody—the prosecution must account for each link of the chain, from the moment of seizure up to presentation in court as evidence of the *corpus delicti*.<sup>25</sup> Therefore, the case of the prosecution rises or falls depending on the meticulousness employed by the police officers in ensuring that the seized items are the same ones brought to court.<sup>26</sup>

Accordingly, the four links in the chain of custody of the seized items are:

[F]irst, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>27</sup>

Marking after seizure is the starting point in the custodial chain. The marking of evidence serves to separate the marked evidence from the *corpus* of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, thus preventing switching, “planting,” or contamination of evidence.<sup>28</sup>

<sup>24</sup> *People v. Lumaya*, 827 Phil. 473, 484 (2018) [Per J. Perlas-Bernabe, Second Division].

<sup>25</sup> *Id.*

<sup>26</sup> *Supra* note 22, at 11. This citation refers to the copy of this Decision uploaded to the Supreme Court website.

<sup>27</sup> *People v. Watamama*, 692 Phil. 102, 107 (2012) [Per J. Villarama, Jr., First Division].

<sup>28</sup> *People v. Dahil, et al.*, 750 Phil. 212, 232 (2015) [Per J. Mendoza, Second Division]. (Citation omitted)

Since seized drugs are characterized as not being readily identifiable, the chain of custody protects the integrity of the seized drugs by safeguarding their nature, quantity (*e.g.*, weight), relation to the incident that allegedly caused their seizure, and relation to the person/s alleged to have been in possession of or peddling them.<sup>29</sup> It follows, therefore, that such nature, quantity, and other identifying descriptors should be established from the first link.

In this case, it is readily apparent that the police officers failed to mark and establish such identifying descriptors from the first link. The markings on the seized objects, as documented in the inventory of seized evidence, indicate only the following:

Inventory of Seized Evidence

1 medium rolled plastic sachets containing undetermined amount of dried marijuana leaves suspected to be marijuana marked as "BB-EM-LB 12-12-18 with signature.

2 pcs. small zip lock transparent plastic sachets containing undetermined amount of dried marijuana leaves suspected to be marijuana marked as EM-LB-1 12-12-18, EM-CG 12-12-18 with signatures.<sup>30</sup>

By declaring an "undetermined amount" of drugs in the inventory, the prosecution here failed to safeguard the integrity of the seized evidence by omitting important descriptors, such as the quantity or weight, which would have ensured that the seized drugs were one and the same with the drugs that would be submitted for laboratory examination, and later on, for presentation in court. This is all the more crucial in this case where the alleged seized drugs were only stored in "rolled plastic" and resealable "zip lock" sachets which are certainly not secured against switching, planting, or contamination. The police officers' lack of meticulousness in marking and securing the evidence defied the tenets of Section 21 of R.A. No. 9165, as amended, which precisely seeks to preserve the integrity of drug evidence.

We note from the record that this vague description of the seized items carried over until the stage when the request for a laboratory examination was made, even throughout the chain of custody form<sup>31</sup> which is supposed to serve as a log sheet for each person who touched the exhibits. It bears stressing that in charges of illegal possession of drugs such as in this case, the weight of the seized drugs have a direct implication on the penalty to be incurred.<sup>32</sup>

The third link involving the turnover by the investigating officer to the forensic chemist for laboratory examination is also marred with irregularities.

<sup>29</sup> *Id.* at 223-224. (Citation omitted)

<sup>30</sup> Records, p. 26.

<sup>31</sup> *Id.* at 56.

<sup>32</sup> See R.A. No. 9165, Section 11.

It is evident from the chain of custody form that PO2 Tejares, after receiving the seized evidence to prepare the request for a laboratory examination, returned the evidence to PO1 Miguel. Curiously, while the chain of custody form indicates that PO1 Miguel received it from PO2 Tejares at 4:20 p.m. of December 12, 2018, it only appears that he eventually turned it over to Police Chief Inspector Bernardo Roque (*PC/Insp. Roque*) at 7:15 p.m., thereby leaving three hours that were unaccounted for. Nothing in PO1 Miguel's testimony provides an explanation as to where he received it, what happened to it while it was in his possession, the condition he received it, and the condition in which it was delivered to the next link in the chain.

Noteworthy, the affidavit of arrest by SPO2 Jesster Dela Cueva (*SPO2 Dela Cueva*), the back-up officer of PO1 Miguel, presented a different narration from PO2 Tejares regarding the chain of custody, thereby raising doubts as to who obtained possession of the seized items during the material transfer to the responsible officers. The affidavit reads:

17. [U]pon arrival to (sic) our station, . . . [PO1 Miguel] properly presented/turned over to SPO2 ERROL TEJARES the duty investigator the said recovered pieces of evidence together with the living body of the suspects;

18. That, SPO2 ERROL TEJARES as the assigned investigator prepared the spot report, arrest and booking sheet, memorandum request for laboratory/drug test and Physical examination and upon completion of the same, SPO2 TEJARES **turned over to [PO2 CRUZ]** the recovered pieces of evidence[.]<sup>33</sup> (Emphasis supplied)

Verily, while SPO2 Dela Cueva mentioned a certain "PO2 Cruz" in the chain, his participation in the subsequent transfer of the seized items is nowhere to be found in the records. Whether PO2 Cruz had a hand in any of the processes during the chain of custody is a pondering question that remained unanswered. Such fact creates doubt on whether the integrity and evidentiary value of the seized items have been preserved.

There are also patent irregularities in the fourth link of the chain of custody. "The last link involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case."<sup>34</sup> We discussed in *Largo v. People*<sup>35</sup> the necessary details that need to be established with regard to this link:

Finally, the **fourth link** refers to the turnover and submission of the dangerous drug from the forensic chemist to the court. In drug related cases, it is of paramount necessity that the forensic chemist testifies as to details pertinent to the handling and analysis of the dangerous drug submitted for

<sup>33</sup> Records, p. 15.

<sup>34</sup> *Supra* note 28, at 237.

<sup>35</sup> G.R. No. 201293, June 19, 2019 [Per J. Lazaro-Javier, Second Division].

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, as the case may be. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.<sup>36</sup>

In this case, the parties only stipulated that PC/Insp. Roque conducted a qualitative examination on the submitted specimens and found that the same were positive for the presence of marijuana, a dangerous drug. PC/Insp. Roque placed the examined specimens in a transparent plastic bag, sealed it with a masking tape, placed his markings “D-2984-18 BRR” with his signature, and turned them over to evidence custodian, PO2 Tuccad. There was no testimony or evidence on where PC/Insp. Roque kept the seized items while it was in her custody, nor was there a showing that there was no opportunity for unauthorized access thereof. The stipulation was also bereft of any details regarding the identifying labels, the description of the specimen upon receiving it and upon turnover to PO2 Tuccad, or the name and method of analysis in determining the chemical composition of the subject specimen.

Furthermore, the narration of this link is directly contradicted in the affidavit of arrest by SPO2 Dela Cueva:

16. That, the recovered drug specimen subject for laboratory examination and the suspects subject for drug test analysis were turned over by PO1 Miguel accompanied by the undersigned to QCPD Crime Laboratory which was received by duty Forensic Chemist **PCI JUN MALONG** at about 7:17 PM, December 12, 2018. Nonetheless, laboratory examination conducted to (sic) the recovered specimen yielded POSITIVE result for presence of “MARIJUANA”, a dangerous drug under R.A. 9165. Likewise, the urine sample taken from the suspect for drug test analysis yielded POSITIVE for the test of THC Metabolite conducted by Forensic Chemist PCI BERNARDO ROQUE dated December 12, 2018.<sup>37</sup> (Emphasis supplied)

Remarkably, the chain of custody form shows that PO1 Miguel turned over the specimens to PC/Insp. Roque at 7:15 p.m., while the affidavit of arrest of SPO2 Dela Cueva indicates that the specimens were received by PC/Insp. Malong at 7:17 p.m. Such a contradictory narration of who received the specimens for laboratory examination raises doubts as to what really transpired during the transfers made from one person to another.

Given the reasonable doubt as to the irregularities in the first, third, and fourth links in the chain of custody, the acquittal of Garnica and Baliña, on both charges, necessarily follows.

<sup>36</sup> *Id.* at 9-10. This citation refers to the copy of this Decision uploaded to the Supreme Court website.

<sup>37</sup> Records, p. 18.

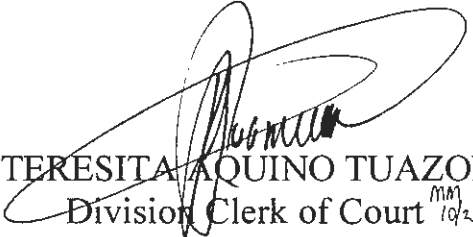
**FOR THESE REASONS**, the instant appeal is **GRANTED**. The assailed Decision dated June 5, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 12644 is **REVERSED and SET ASIDE**. Accused-appellants **Christopher Garnica y Medrano and Lemuel Baliña y Tandico** are hereby **ACQUITTED** of the crimes charged on the ground of reasonable doubt. They are **ORDERED** to be **IMMEDIATELY RELEASED** from detention unless they are being held for some other valid or lawful cause.

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

Let entry of final judgment be issued immediately.

**SO ORDERED.”**

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court <sup>MM</sup> 10/23  
23 OCT 2023

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LEMUEL BALIÑA y TANDICO (x)  
Accused-Appellant  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (x)  
Bureau of Corrections  
1770 Muntinlupa City

THE SUPERINTENDENT(x)  
New Bilibid Prison  
1770 Muntinlupa City

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Medium Security Compound  
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Muntinlupa City

10/3

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 79  
Quezon City  
(Crim. Cases Nos. R-QZN-19-00051-CR; R-QZN-19-00052-CR  
& R-QZN-19-00053-CR)

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\*For this resolution only  
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