Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

- *versus* -

EDUARDO DELA CRUZ y GUMABAT @ "EDDIE",
Appellant.

G.R. No. 205414

Present:

VELASCO, JR., *J., Chairperson*,
PERALTA,
PEREZ,
REYES, and
PERLAS-BERNABE,* *JJ.*

Promulgated:

April 4, 2016

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DECISION

PERALTA, *J.*:

For the Court's consideration is the Decision[1] dated March 19, 2012 of the Court of Appeals (*CA*) in CA-G.R. CR HC No. 04587 affirming the Decision[2] dated August 2, 2010 of the Regional Trial Court (*RTC*) of Manila, Branch 2, in Criminal Case No. 09-271907, finding appellant guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (*RA*) No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

In an information filed on November 5, 2009, appellant Eduardo dela Cruz y Gumabat was charged with illegal sale of dangerous drugs under

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* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated October 1, 2014.

1 Penned by Associate Justice Rebecca De Guia-Salvador, with Associate Justices Normandie B. Pizarro and Rodil V. Zalameda, concurring; *rollo*, pp. 2-22.

2 Penned by Presiding Judge Alejandro G. Bijasa, CA *rollo*, pp. 9-15.

Section 5 of Article II of RA No. 9165, the accusatory portion of which reads:

> That on or about October 23, 2009, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there wilfully, unlawfully and knowingly sell or offer for sale to poseur-buyer, one (1) Blister pack with label "Valium" containing Ten (10) round blue tablets weighing ONE POINT SEVEN TWO ZERO (1.720) grams which after a qualitative examination, gave positive result to the test of diazepam, a dangerous drug.
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> Contrary to law.[3]

Upon arraignment, appellant pleaded not guilty to the crime charged. Consequently, trial on the merits ensued.[4]

The factual antecedents, as narrated by the witnesses of the prosecution, namely, PO1 Jaycee John Galotera, who acted as the poseur-buyer; PO1 Roderick Magpale, who was the investigator-on-duty at the Special Operation and Task Unit; and PO3 Ryan Sulayao, who acted as the perimeter back-up, are as follows:

At around 7:30 p.m. on October 22, 2009, a confidential informant arrived at the Jose Abad Santos Police Station, Manila Police District and informed PO1 Ronnie Tan, PO3 Ryan Sulayao and PO3 Eric Guzman about the illegal drug activities being conducted by appellant along Solis Street, Tondo, Manila. Said informant claimed to have gained access to appellant. Consequently, the police officers immediately informed their station commander, P/Supt. Remigio Sedanto, who tasked the unit to conduct a buy-bust operation, to be led by P/Inspector Jeffrey Dallo, with PO1 Galotera acting as poseur-buyer, and the rest of the team to serve as back-up. P/Inspector Dallo gave PO1 Galotera three (3) pieces of One Hundred Peso (₱100.00) bills to be utilized as buy-bust money, which PO1 Galotera marked with his initials "JJG." The team also agreed that PO1 Galotera's removal of his ball cap constitutes the signal indicating that the transaction has been consummated and that the appellant may be arrested. After a thorough briefing and coordination with the Philippine Drug Enforcement Agency (PDEA), the team left the station and proceeded to the target area at around 12:20 a.m.[5]

PO1 Galotera and the confidential informant went straight to the destination aboard a motorcycle, while PO1 Tan, PO3 Sulayao, and PO3 Guzman, aboard a separate motorcycle, positioned themselves about ten (10) meters away from PO1 Galotera and the informant. PO1 Galotera and the

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3 *Rollo,* p. 3.
4 *Id*.
5 *Id*. at 4.

informant then walked along an alley on Solis Street towards Villanueva Street and saw two (2) men standing at a dark portion thereof. As they approached said men, the confidential informant whispered to PO1 Galotera that the person on the right was appellant. Thereafter, appellant asked the informant what he needed.[6] In reply, the informant told appellant that he and his companion, PO1 Galotera, needed "Valium," which contains Diazepam, a dangerous drug. Appellant then asked how much Valium they need, to which PO1 Galotera answered, "*Isang banig lang*." PO1 Galotera then handed the marked money in the amount of Three Hundred Pesos (₱300.00) to appellant, who placed the same in his front left pocket. Thereafter, appellant pulled out one blister pack containing ten (10) pieces of round, blue tablets from his right pocket and handed the same to PO1 Galotera. Believing that what he received was Valium based on its appearance, PO1 Galotera executed the pre-arranged signal. Upon seeing the signal, PO3 Guzman proceeded to assist PO1 Galotera, who immediately grabbed appellant. Appellant's companion, who tried to escape, was also subdued by PO3 Guzman. PO1 Galotera then apprised appellant of the nature of his arrest and read him his constitutional rights. He also marked the seized tablets with the initials "EDG" corresponding to appellant's name.

Afterwards, he turned over the appellant and the seized evidence to PO1 Roderick Magpale, an investigator of the Anti-Illegal Special Operation Task Unit at the Police Station. PO1 Magpale then took pictures of appellant and the seized evidence, prepared the Booking and Information Sheet, and forwarded the seized tablets to the forensic laboratory for examination. Accordingly, Forensic Chemist Erickson L. Calabocal, conducted a chemistry examination and in his Chemistry Report No. D-787-09, found that the ten (10) round, blue tablets seized from appellant tested positive for Diazepam, a dangerous drug.[7] During trial, however, Calabocal's testimony was dispensed with after the parties stipulated on the existence and due execution of Chemistry Report No. D-787-09.[8]

Against the foregoing charges, appellant testified on his own version of facts, and further presented the testimonies of his mother, Leonora dela Cruz, and one Roberto Balatbat.[9]

Appellant testified that he was a jeepney driver by profession and a resident at Solis Street, Tondo, Manila. At around 3:00 p.m. on October 23, 2009, he went to see his friend, Nicanor Guevarra, to convince him to place a bet on the "karera." He found him at the tricycle terminal at Solis Street corner Callejon Villanueva, playing *cara y cruz* and joined him. Suddenly, the policemen arrived. They tried to run but were eventually arrested. Appellant requested that he be brought to the *barangay* hall, but the

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6 *Id*.
7 *Id*. at 5.
8 *Id*.
9 *Id*. at 6.

policemen brought him directly to the police station. He thought that he was only being accused of illegal gambling for playing *cara y cruz.* It turned out, however, that he was being charged with illegal sale of dangerous drugs.[10]

After appellant, the defense presented appellant's mother who denied that her son was into selling dangerous drugs. According to her, at around 3:00 p.m. on October 23, 2009, appellant asked her permission to leave the house to place a bet. However, she later learned from her granddaughter that her son had been arrested.

Next was Roberto Balatbat, a tricycle driver residing at Solis Street, Tondo, Manila, who testified that on that day, he was at the tricycle terminal on Solis Street playing *cara y cruz*. When the four (4) police officers arrived, he quickly ran away leaving behind appellant and Guevarra, who were arrested. He denied that any sale of dangerous drugs transpired at the time and place of appellant's arrest.[11]

In its Decision dated August 2, 2010, the RTC gave credence to the testimonies of the police officers as they were given in a clear and convincing manner showing that the officers were at the place of the incident to accomplish exactly what they had set out to do, which was to conduct a legitimate buy-bust operation on appellant.[12] It found that unless the members of the buy-bust team were inspired by any ill motive to testify falsely against appellant, their testimonies deserve full faith and credit, particularly in light of the presumption that they have performed their duties regularly. Indeed, the positive identification of appellant by the prosecution witnesses prevails over appellant's denial, which is inherently a weak defense.[13] The trial court, therefore, disposed of the case as follows:

> WHEREFORE, from the foregoing, judgment is hereby rendered, finding the accused, Eduardo dela Cruz y Gumabat @ Eddie, GUILTY, beyond reasonable doubt of the crime charged. He is hereby sentenced to life imprisonment and to pay a fine of ₱500,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs.
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> The specimen is forfeited in favor of the government and the Branch Clerk of Court, accompanied by the Branch Sheriff, is directed to turn over with dispatch and upon receipt the said specimen to the Philippine Drug Enforcement Agency (PDEA) for proper disposal in accordance with the law and rules.
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> SO ORDERED.[14]

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10 *Id*.
11 *Id*.
12 CA *rollo*, p. 13.
13 *Id*. at 14.
14 *Id*. at 15.

Appellant appealed his conviction arguing that his warrantless arrest was unlawful for he was not, in fact, caught selling dangerous drugs but was merely committing the offense of illegal gambling. Thus, the ten (10) tablets of Valium allegedly seized from him is inadmissible as evidence.[15] Appellant also argued that there was no showing that he was informed of the reason for his arrest, of his constitutional right to remain silent and to be assisted by a counsel of his choice.[16] Appellant further faulted the prosecution for not only failing to present the buy-bust money as evidence in court[17] but also failing to show proof that the confiscated Valium was subjected to a qualitative examination.[18] He noted that the chemist who supposedly conducted the laboratory examination on the drug did not know the source from which it came.[19]

On March 19, 2012, the CA sustained appellant's conviction. At the outset, it noted that it was only in appellant's appeal that appellant raised for the first time the issue of the irregularity of his arrest. At no time before or during his arraignment did he object to the same. As such, jurisprudence dictates that he should be estopped from assailing said irregularity, for issues not raised in the lower courts cannot be raised for the first time on appeal without offending the basic rules of fair play.[20] Even assuming that the police officers failed to inform appellant of his rights under custodial investigation, the appellate court held that such would not necessarily result in appellant's acquittal because his conviction was based not on any extrajudicial confession but on the testimony of PO1 Galotera who clearly and convincingly narrated the material details of the buy-bust operation that led to appellant's arrest.[21]

On appellant's main contention that the police officers should have obtained a judicial warrant to validly effect his arrest, the appellate court held that the instant case falls within one of the settled exceptions: an arrest made after an entrapment operation. This is because such warrantless arrest is considered valid under Section 5(a),[22] Rule 113 of the Revised Rules on Criminal Procedure. The CA explained that buy-bust operations, such as the one conducted herein, is a form of entrapment where means are resorted to for the purpose of capturing lawbreakers in the execution of their own, criminal plan. In upholding the validity of the operation, the "objective test" demands that the details of the purported transaction be clearly shown, beginning from the initial contact between the *poseur*-buyer and the pusher, the offer to purchase, the promise or payment of the consideration, until the

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15 *Id*. at 46.
16 *Id*. at 51.
17 *Id*. at 53.
18 *Id*. at 54.
19 *Id*.
20 *Rollo*, p. 8.
21 *Id*. at 9.
22 Sec. 5. *Arrest without warrant; when lawful.* – A peace officer or a private person may, without a warrant, arrest a person:
(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; x x x.

consummation of the sale by the delivery of the illegal drug subject of the sale.[23] Here, the appellate court found that said requirements were adequately met for as observed by the trial court, the testimonies presented by the prosecution were given in a clear, straightforward and convincing manner.

As for the failure by the prosecution to offer as evidence the marked money, the CA cited jurisprudence holding that the absence of the marked money does not create a hiatus in the prosecution's evidence, as long as the sale of the dangerous drug is adequately proved.[24] Furthermore, the appellate court rejected appellant's contention that there was no proof that the Valium that was subjected to qualitative examination was the same Valium seized from him during the buy-bust operation. According to the appellate court, the unbroken chain of custody of the ten (10) Valium tablets was established by the prosecution through the testimonies of PO1 Galotera and PO1 Magpale. Thus, in the absence of any bad faith or proof that the evidence has been tampered with, the integrity of the evidence is presumed to have been preserved.[25]

Aggrieved, appellant filed a Notice of Appeal[26] on April 4, 2012. Thereafter, in compliance with the Resolution of the Court, dated March 13, 2013, notifying the parties that they may file their respective supplemental briefs, if they so desire, within thirty (30) days from notice, appellant filed his Supplemental Brief on June 14, 2013 raising the following errors:

> I.
> THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE NON-COMPLIANCE BY THE ARRESTING OFFICERS OF THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS UNDER R.A. NO. 9165.
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> II.
> THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE THE IDENTITY OF THE *CORPUS DELICTI*.[27]

Appellant maintains that the instant case does not fall under the exceptions to the requirement of obtaining a judicial warrant prior to making an arrest under Section 5, Rule 113 of the Revised Rules on Criminal Procedure. According to appellant, for *in flagrante* warrantless arrests to be lawful, the following elements must concur: (1) the person to be arrested

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23 *Rollo*, p. 11.
24 *Id*. at 17.
25 *Id*. at 21.
26 *Id*. at 23.
27 *Id.* at 35.

must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer. But here, appellant asserts that he was not exhibiting any strange actuation at the time of his arrest, merely playing *cara y cruz* with a friend. Thus, absent any physical act on the part of the accused, positively indicating that he had just committed a crime or was committing or attempting to commit one, no reasonable suspicion would be sufficient enough to justify his arrest and subsequent search without a warrant.[28]

Next, appellant asseverates that the prosecution failed to establish, with moral certainty, that the item seized from him was the very same item presented and proved in court because of its non-compliance with the requirements under Section 21 of RA No. 9165 mandating the arresting team to conduct a physical inventory of the items seized and photograph the same in the presence of: (1) the accused; (2) a representative from the media; (3) a representative from the Department of Justice (DOJ); and (4) any elected public official who shall further be required to sign the copies of the said inventory. According to appellant, no physical inventory nor photograph was ever taken in this case.[29]

Furthermore, while appellant recognizes the jurisprudential teaching that non-compliance with Section 21 of RA No. 9165 is not fatal so long as: (1) there is justifiable ground therefor; and (2) the integrity and evidentiary value of the seized items were properly preserved by the apprehending team, he stressed that said conditions were not established in this case. Not only did the prosecution fail to adequately explain its failure to comply with said requirements, it likewise failed to show the preservation of the integrity and evidentiary value of the seized items. Appellant asserts that this is due to a gaping hole in the chain of custody of the seized items arising from the prosecution's failure to show how the seized drugs were transported from the place of arrest to the police station, or from the time they were delivered to the laboratory until their eventual presentation in court.

The appeal is unmeritorious.

To secure a conviction for the crime of illegal sale of regulated or prohibited drugs, the following elements under Section 5, Article II of RA No. 9165 should be satisfactorily proven: (1) the identities of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.[30]

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28 *Id*. at 36.
29 *Id*. at 37.
30 *People v. Mariano*, G.R. No. 191193, November 14, 2012, 685 SCRA 592, 600.

The Court finds that the prosecution sufficiently proved the preceding requisites warranting appellant's conviction. As appropriately found by the lower courts, the prosecution presented clear and convincing testimonies of the police officers categorically recounting, in detail, how they conducted the buy-bust operation, beginning from the receipt of the tip from the confidential informant, then to the marking of the buy-bust money with the initials of PO1 Galotera, and then to the meeting of the appellant as seller and PO1 Galotera as buyer, and next to the actual exchange of the blister pack containing the Valium tablets with the marked money, and then finally to the appellant's eventual arrest and turn over to the police station where his arrest was duly recorded. Moreover, the prosecution further presented before the trial court Chemistry Report No. D-787-09 on the seized tablets revealing positive results for Diazepam, a dangerous drug under RA No. 9165. It is clear, therefore, that the prosecution's evidence adequately established beyond reasonable doubt the identity of the buyer and seller, the ten (10) tablets of Valium as the object of the sale, the marked money as the consideration, as well as the exchange of the Valium and the marked money signifying the consummation of the sale.

In this regard, the Court cannot give credence to appellant's insistence on the illegality of his warrantless arrest due to an alleged absence of any overt act on his part positively indicating that he was committing a crime. He asserts that he was merely playing *cara y cruz* and denies any participation in the crime charged. Section 5, Rule 113 of the Rules of Court enumerates the circumstances by which a warrantless arrest are considered reasonable:

> Sec 5. *Arrest without warrant, when lawful* – A peace officer or a private person may, without a warrant, arrest a person:
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> **(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;**
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> (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
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> (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.[31]

Contrary to appellant's claims, there is overwhelming evidence that he was actually committing a crime in the presence of the police officers who arrested him without a warrant. To repeat, straightforward and unwavering testimonies were presented by the prosecution narrating, in detail, how the police officers personally witnessed the sale by appellant of the dangerous

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31 Emphasis ours.

drug, being actual participants of the buy-bust operation. Indeed, 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.[32] Against the positive testimonies of the prosecution witnesses, appellant's plain denial of the offense charged, unsubstantiated by any credible and convincing evidence, must simply fail.[33]

As for appellant's contention that the prosecution failed to establish that the items seized from him were the very same items presented and proved in court due to its non-compliance with the requirements under Section 21 of RA No. 9165 mandating the arresting officers to take photographs and conduct a physical inventory of the items seized, the Court is not convinced. Section 21, Paragraph 1, Article II of RA No. 9165 provides:

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

Notwithstanding the foregoing, and as admitted by appellant, the failure to conduct a physical inventory of the seized items, as well as to take photographs of the same in the presence of the persons required above, will not automatically render an arrest illegal or the seized items inadmissible in evidence,[34] pursuant to the following Section 21 (a) of the Implementing Rules and Regulations (IRR) of RA No. 9165:

> (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

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32 *People v. Adriano*, G.R. No. 208169, October 8, 2014.
33 *People v. Almodiel*, 694 Phil. 449, 464 (2012).
34 *People of the Philippines v. Manuela Flores y Salazar*, G.R. No. 201365, August 3, 2015.

> 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[.]**[35]

In view of the preceding, the Court has, time and again, ruled that non-compliance with Section 21 of RA No. 9165 shall not necessarily render the arrest of an accused as illegal or the items seized as inadmissible if the integrity and evidentiary value of the seized items are properly preserved in compliance with the chain of custody rule.[36] The Court explained the rule on the chain of custody to be as follows:

> The rule on chain of custody expressly demands the identification of the persons who handle the confiscated items for the purpose of duly monitoring the authorized movements of the illegal drugs and/or drug paraphernalia from the time they are seized from the accused until the time they are presented in court. Moreover, as a method of authenticating evidence, 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. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered in evidence, in such manner 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. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.[37]

It is evident from the records of this case that the prosecution sufficiently complied with the chain of custody rule. Contrary to the claims of appellant, the unbroken chain of custody of the tablets seized from him was categorically established by the testimonies presented by the prosecution's witnesses. PO1 Galotera gave a clear and detailed account of the events that transpired from the moment he handed the marked money to appellant, to the time appellant pulled out the blister pack containing ten (10) pieces of round, blue tablets from his right pocket, all the way up to his execution of the pre-arranged signal and subsequent arrest of appellant. He

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35 Emphasis ours.

36 *People of the Philippines v. Edwin Dalawis y Hidalgo*, G.R. No. 197925, November 9, 2015, citing *People of the Philippines v. Michael Ros y Ortega, et al.,* G.R. No. 201146, April 15, 2015.

37 *Id*.

testified that he informed appellant of his constitutional rights, apprised him of the nature of his arrest, and marked the seized tablets with appellant's initials. He also attested to the process by which he turned appellant and the seized items over to PO1 Magpale, who in turn, clearly narrated how he took photographs thereof, prepared the Booking and Information Sheet, and eventually turned over appellant and the seized items to Forensic Chemist Calabocal.

In an attempt to further assign breaks in the chain of custody, appellant claimed that the prosecution did not present any testimony of the persons who took charge of the safekeeping and custody of the illicit drugs from the time they were delivered to the laboratory. It bears stressing, however, that such point had already been addressed by the appellate court in the following wise:

> **The testimony of Forensic Chemist PS I. Erickson L. Calabocal was dispensed with after the parties had stipulated on the existence and due execution of Chemistry Report No. D-787-09 (Exhibit "C").**
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> x x x x
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> x x x Quoting from their testimonies, the Solicitor General aptly traced the unbroken chain of custody of the valium tablets seized from appellant, thus:
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> x x x x
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> **Worthy of note, as well is the fact that the parties stipulated during pre-trial that the forensic chemist who conducted the qualitative examination of the seized item received a letter request dated October 23, 2009 from PO1 Magpale. Attached to said letter was the specimen with markings EDG.**[38]

In like manner, the trial court similarly noted appellant's admission, during pre-trial, of the parties' stipulation as to the qualification of PS I. Erickson L. Calabocal as a Forensic Chemist, as well as the genuineness and due execution of the documents he brought together with the specimen, part of which were his Final Chemistry Report and his Findings and Conclusions resulting from the laboratory examination he conducted on the seized tablets, which yielded positive results for dangerous drugs.[39] Due to these stipulations, the testimony of Forensic Chemist Calabocal was not presented at trial not because the prosecution failed to do so, but because the same was dispensed with as expressly agreed to by the parties.

Unfazed, appellant further faults the police officers not only for failing to comply with the requirements of Section 21 of RA No. 9165 but also for failing to provide any explanation constituting justifiable ground

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38 *Rollo*, pp. 5 and 21. (Emphasis ours)

39 CA *rollo*, pp. 9-10.

therefor. It bears stressing, however, that said objection was never raised in the trial court, and not even on appeal before the appellate court. Appellant cannot belatedly raise its questions as to the evidence presented at trial, too late in the day and, at the same time, expect the prosecution to have provided justifiable grounds for its non-compliance with RA No. 9165. *People of the Philippines v. Jimmy Gabuya y Adlawan*[40] explains:

> It is well to note that the records of the case are bereft of evidence that appellant, during trial, interposed any objection to the non-marking of the seized items in his presence and the lack of information on the whereabouts of the shabu after it was examined by P/Insp. Calabocal. While he questioned the chain of custody before the CA, the alleged defects appellant is now alluding to were not among those he raised on appeal. The defects he raised before the CA were limited to the alleged lack of physical inventory, non-taking of photographs of the seized items, and the supposed failure of the police officers to mark the sachets of shabu at the crime scene. But even then, it was already too late in the day for appellant to have raised the same at that point since he should have done so early on before the RTC. **It bears stressing that the Court has already brushed aside an accused's belated contention that the illegal drugs confiscated from his person is inadmissible for failure of the arresting officers to comply with Section 21 of R.A. 9165.20 This is considering that "[w]hatever justifiable grounds may excuse the police officers from literally complying with Section 21 will remain unknown, because [appellant] did not question during trial the safekeeping of the items seized from him. Objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of an objection. Without such objection, he cannot raise the question for the first time on appeal. x x x"**

Be that as it may, the Court has always reiterated that "what is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused."[41] Here, the Court opines that said requirement was sufficiently complied with. It is evidently clear, therefore, that there exists no gap in the chain of custody of the dangerous drug seized from appellant for all the links thereof beginning from the moment the item was obtained from appellant up to the time the same was presented in court were sufficiently accounted for. Thus, it is because the apprehending team properly preserved the integrity and evidentiary value of the seized items that the Court excuses their failure to strictly comply with Section 21 of RA No. 9165 for on said failure, alone, appellant cannot automatically be exonerated.

All things considered, the Court finds no compelling reason to disturb the findings of the courts below for the prosecution adequately established, with moral certainty, all the elements of the crime charged herein. It is

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40 G.R. No. 195245, February 16, 2015. (Emphasis supplied)

41 *People v. Manlangit*, 654 Phil. 427, 442 (2011).

hornbook doctrine that the factual findings of the appellate court affirming those of the trial court are binding on this Court unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable error.[42] Thus, there exists no reason to overturn the conviction of appellant.

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. The Decision dated March 19, 2012 of the Court of Appeals in CA-G.R. CR HC No. 04587, affirming the Decision dated August 2, 2010 of the Regional Trial Court, Branch 2, Manila, in Criminal Case No. 09-271907, finding appellant Eduardo Dela Cruz y Gumabat guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165, is hereby **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

On leave
ESTELA M. PERLAS-BERNABE
Associate Justice

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42 *People of the Philippines v. Bienvenido Miranda y Feliciano*, G.R. No. 209338, June 29, 2015.

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice