



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 215192

Present:

- versus -

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

BERNABE M. BARTOLINI,
Appellant.

Promulgated:

27 JUL 2016

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DECISION

CARPIO, *J.*:

The Case

On appeal is the 13 August 2014 Decision¹ of the Court of Appeals in CA-G.R. CR-HC No. 00550-MIN. The Court of Appeals affirmed the 16 November 2006 Judgment² of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 25, convicting appellant Bernabe M. Bartolini (Bartolini) for violating Section 5, Article II of Republic Act (RA) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

The Information dated 21 September 2004 reads:

That on or about the 22nd day of June 2004 at about 7:20 o'clock in the evening, more or less, at Barangay Sugbongcogon, Municipality of Tagoloan, Province of Misamis Oriental, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to possess and to sell any dangerous drugs,

¹ *Rollo*, pp. 3-9. Penned by Associate Justice Henri Jean Paul B. Inting, with Associate Justices Edgardo A. Camello and Pablito A. Perez concurring.

² *CA rollo*, pp. 75-78. Penned by Judge Noli T. Catli.

knowingly, willfully and feloniously did then and there sell and convey to a third person twenty-six (26) pieces of white rolled Marijuana sticks, having a total weight of 2.2 grams, which when examined gave positive result to the test of the presence of Marijuana, a dangerous drug.

Contrary to and in violation of Section 5, Article II of RA 9165.³

Upon arraignment, Bartolini entered a plea of not guilty.

The facts, as culled from the records, are as follows:

On 12 June 2004, the Provincial Anti-Illegal Drugs Special Operation Task Unit (PAID-SOTU) of Misamis Oriental conducted a test-buy operation on Bartolini and was able to buy two marijuana sticks from the latter. The following day, the PAID-SOTU tried to conduct a buy-bust operation but failed because Bartolini could not be found within the area.

On 22 June 2004, at around 7:00 in the evening, the PAID-SOTU conducted a buy-bust operation against Bartolini in Sugbongcogon, Tagoloan, Misamis Oriental. The buy-bust team was composed of SPO4 Lorenzo Larot (SPO4 Larot) as team leader, SPO3 Wilfred Saquilayan, PO3 Arthur Catalan, PO3 Juancho Dizon (PO3 Dizon), PO2 Roel Sereno, and Barangay Kagawad Leonardo Abenque (Barangay Kagawad Abenque). They also had a confidential informant to act as the poseur-buyer to help with the operation. Marked money in the amount of Eighty Pesos (₱80), composed of one Fifty Peso bill, one Twenty Peso bill, and one Ten Peso bill, was given to the poseur-buyer.

The members of the buy-bust team were inside a store pretending to be customers while the poseur-buyer was about two meters outside of the store. Bartolini approached the poseur-buyer and thereafter, SPO4 Larot saw the decoy show and give the marked money to Bartolini. Bartolini then went to his house and came back giving the decoy 26 sticks of marijuana. The decoy then placed his white towel on his shoulder, which was the pre-arranged signal that the transaction took place. The buy-bust team then rushed to Bartolini and arrested him. They recovered the marked money and three stalks of marijuana from Bartolini. The buy-bust team, together with Bartolini, went to the Tagoloan Police Station where the seized items were marked by SPO4 Larot. The Certificate of Inventory was also prepared by SPO4 Larot and was signed by SPO4 Larot, Bartolini, and Barangay Kagawad Abenque.

SPO4 Larot prepared the request for: (1) the laboratory examination of the 26 sticks and 3 stalks of marijuana; (2) the drug test for Bartolini; and (3) the test for ultra-violet radiation of the marked money and the body of Bartolini. The Chemistry Reports from the Philippine National Police Crime Laboratory showed that: (1) the sticks tested positive for the presence

³ Id. at 75.

of marijuana; (2) Bartolini tested positive for marijuana; and (3) the marked money and the hands of Bartolini were positive for bright green ultra-violet fluorescent powder.

Bartolini, for his defense, stated that on 22 June 2014, at around 7:00 in the evening, he was on his way home when he met two acquaintances – Dodong and Lito, whom he inquired regarding a job at Swift Processing Plant. During the course of their conversation, two persons walked towards them and put him under arrest. These persons were SPO4 Larot and PO3 Dizon. PO3 Dizon thereafter asked him if he was Roger Patok, and when Bartolini denied that he was Roger Patok, PO3 Dizon continued to insist that he was. After asking where Bartolini lived, they went inside his house and searched it. Bartolini saw SPO4 Larot pull something from his pocket and place a white cellophane on the stove of his kitchen. He was then brought to the highway where he was handcuffed, and thereafter, he was brought to the police station where he was made to hold money bills, one One Hundred Peso bill and one Ten Peso bill, and to urinate.

Bartolini strongly denied the accusations against him and contended that he is merely a victim of a frame-up by the police and no such buy-bust operation ever happened.

The Ruling of the RTC

In a Judgment dated 16 November 2006, the RTC found Bartolini guilty beyond reasonable doubt for violation of Section 5, Article II of RA 9165,⁴ to wit:

WHEREFORE, in view of the foregoing, the Constitutional presumption of innocence of accused having been overcome by substantial evidence beyond reasonable doubt, this Court finds accused BERNABE M. BARTOLINI, “guilty” beyond reasonable doubt for Violation of Section 5, Article II of R.A. 9165 and without any aggravating nor mitigating circumstance, hereby sentences accused to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (₱500,000.00).

Accused is credited in the service of his sentence consisting of deprivation of liberty with the full time during which he has undergone preventive imprisonment if the detention prisoner agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

⁴ Section 5 of RA 9165 provides in part:

Section 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 (₱500,000.00) to Ten million pesos (₱10,000,000.00) 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. x x x.

The twenty-six (26) pieces of white rolled Marijuana sticks are forfeited in favor of the government to be dispensed in accordance with law.

SO ORDERED.⁵

Bartolini filed his Notice of Appeal⁶ which was given due course by the RTC.

The Ruling of the Court of Appeals

In a Decision dated 13 August 2014,⁷ the Court of Appeals affirmed the decision of the RTC finding Bartolini guilty of violating Section 5, Article II of RA 9165. The dispositive portion of the Decision of the Court of Appeals reads:

WHEREFORE, the instant appeal is DENIED. The Decision of the Regional Trial Court is AFFIRMED.⁸

Bartolini filed his Notice of Appeal dated 18 September 2014 with the Court of Appeals.⁹

The Issue

The issue to be resolved in this appeal is whether or not the Court of Appeals gravely erred in finding Bartolini guilty of violating Section 5, Article II of RA 9165. Bartolini argues that the non-compliance with Section 21, Article II of RA 9165 and the failure to establish the *corpus delicti* of the offense and the unbroken chain of custody should necessarily result in the reversal of his conviction.

The Ruling of the Court

The appeal is meritorious.

For a successful prosecution of the offense of illegal sale of dangerous drugs under RA 9165, the following elements must be proven: (1) the transaction or sale took place; (2) the *corpus delicti* or the illicit drug was presented as evidence; and (3) the buyer and the seller were identified.¹⁰ In this case, we find that the prosecution failed to prove these elements beyond reasonable doubt.

⁵ CA rollo, p. 78.

⁶ Rollo, pp. 10-12.

⁷ Id. at 3-9.

⁸ Id. at 9.

⁹ CA rollo, pp. 120-122.

¹⁰ *People v. De la Cruz*, 591 Phil. 259, 269 (2008).

Specifically, Bartolini argues that the *corpus delicti* of the crime was not established, and the unbroken chain of custody was likewise not established. We find merit in his arguments.

In a case involving dangerous drugs, the substance itself constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction.¹¹ In *People v. Gatlabayan*,¹² this Court held that it is of prime importance that the identity of the dangerous drug be established beyond reasonable doubt; and that it must be proven with exactitude that the substance bought during the buy-bust operation is exactly the same substance offered in evidence before the court.

We find that the prosecution failed to establish the *corpus delicti* of the crime beyond reasonable doubt as there were significant gaps in the chain of custody. The requirement of an unbroken chain of custody is to ensure that unnecessary doubts on the identity of the evidence – the dangerous drugs – are removed.¹³ The prosecution has the duty to prove every link in the chain, from the moment the dangerous drug was seized from the accused until the time it is offered in court as evidence. The marking of the seized item, the first link in the chain of custody, is crucial in proving an unbroken chain of custody as it is the starting point in the custodial link that succeeding handlers of the evidence will use as a reference point.¹⁴ The succeeding links in the chain are the different processes the seized item will go through under the possession of different persons. This is why it is vital that each link is sufficiently proven to be unbroken – to obviate switching, planting, or contaminating the evidence.¹⁵

In this case, we find that the prosecution failed to sufficiently establish the first link in the chain of custody. There was a failure to mark the drugs immediately after the items were seized from Bartolini. The items were marked only at the police station and the prosecution offered no reasonable explanation as to why the items were not immediately marked after seizure. We have previously held that the failure to mark the drugs immediately after seizure from the accused cast doubt on the prosecution's evidence, which warrants an acquittal on reasonable doubt.¹⁶ In this case, SPO4 Larot admitted that the items were marked only at the Tagoloan Police Station where Bartolini was brought after he was arrested:

- Q It was only in Tagoloan Police Station where you brought the suspect later after his arrest and where you marked the twenty-six sticks and three (3) stalks of marijuana?
- A Yes, Ma'am.

¹¹ *People v. Frondoza*, 609 Phil. 188, 198 (2009).

¹² 669 Phil. 240, 252 (2011).

¹³ *Mallillin v. People*, 576 Phil. 576 (2008).

¹⁴ *People v. Zakaria*, 699 Phil. 367 (2012).

¹⁵ *People v. Coreche*, 612 Phil. 1238 (2009).

¹⁶ See *People v. Umipang*, 686 Phil. 1024 (2012), citing *People v. Coreche*, id.; *People v. Laxa*, 414 Phil. 156 (2001); *People v. Casimiro*, 432 Phil. 966 (2002).

Q At the police station?

A Yes, Ma'am.¹⁷

This Court has been consistent in holding that the failure of the authorities to immediately mark the seized drugs raises reasonable doubt on the authenticity of the *corpus delicti* and suffices to rebut the presumption of regularity in the performance of official duties.¹⁸ This is consistent with the provisions of RA 9165 which state:

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:

(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;

x x x x (Emphasis supplied)

There have been cases when the Court relaxed the application of Section 21 and held that the subsequent marking at the police station is valid. However, this non-compliance is not fatal only when there are (1) justifiable grounds and (2) the integrity and evidentiary value of the seized items are properly preserved.¹⁹ And while the amendment of RA 9165 by RA 10640²⁰ now allows the conduct of physical inventory in the nearest police station, the principal concern remains to be the preservation of the integrity and evidentiary value of the seized items. In this case, however, the prosecution offered no explanation at all for the non-compliance with Section 21, more particularly that relating to the immediate marking of the seized items. This non-explanation creates doubt on whether the buy-bust team was able to preserve the integrity and evidentiary value of the items seized from Bartolini.

The prosecution also failed to offer any explanation as to why no media representative was present, despite the fact that the police had already conducted a test-buy operation a few days before. As testified by SPO4

¹⁷ TSN, 11 May 2005, p. 22.

¹⁸ *People v. Sabdula*, 733 Phil. 85 (2014).

¹⁹ *People v. Sanchez*, 590 Phil. 214, 234 (2008).

²⁰ Took effect on 15 July 2014.

Larot, there was no representative from the media during the inventory and taking of photographs of the seized items as required in Section 21:

ATTY. MALANOG:

Q So you took pictures of the marijuana sticks and stalks?

A Yes, Ma'am.

Q Where?

A Tagoloan Police Station.

Q In the presence of the accused?

A Yes, Ma'am.

Q Was there a media representative present?

A There was no media representative[.] But there were barangay officials present.

Q But, are you aware of Section 21, RA 9165, that when you took pictures as a result of the entrapment operation, you are supposed to get a media representative to witness the inventory of the items seized?

X X X X

A At that time, we did not contact any media[.] But, there were barangay officials present at that time.

Q You have been enforcing RA 6425 since when, Mr. Witness?

A Since 1995.

Q What about RA 9165?

A In the year 2002.

Q And, having enforced that law since 2002, you are aware of the provision on how the evidence should be handled?

A Yes, Ma'am. I already have the knowledge since I took up some seminars in anti-narcotics.

COURT: (To the witness)

Q Handling, custody and marking of evidence?

A Yes, Your Honor.

ATTY. MALANOG: (To the witness)

Q Of course, you are familiar with Section 21 of RA 9165?

A Yes, Ma'am.²¹

The failure to immediately mark the seized items, taken together with the absence of a representative from the media to witness the inventory, without any justifiable explanation, casts doubt on whether the chain of custody is truly unbroken. Serious uncertainty is created on the identity of the *corpus delicti* in view of the broken linkages in the chain of custody.²² The prosecution has the burden of proving each link in the chain of custody – from the initial contact between buyer and seller, the offer to purchase the

²¹ TSN, 11 May 2005, pp. 22-23.

²² *People v. Havana*, G.R. No. 198450, 11 January 2016.

drug, the payment of the buy-bust money, and the delivery of the illegal drug.²³ The prosecution must prove with certainty each link in this chain of custody and each link must be the subject of strict scrutiny by the courts to ensure that law-abiding citizens are not unlawfully induced to commit an offense.²⁴

Moreover, there was failure to identify who placed certain markings on the seized items. While SPO4 Larot testified that he made the markings “A” and “C” on the items, he was not able to identify who placed the other markings on the evidence presented in court:

Q Alright, now, the twenty-six (26) sticks marijuana cigarettes were confiscated by you from the person of the accused Bernabe Bartolini, as well as, the three (3) stalks of suspected marijuana[.] If those exhibits or specimens will be shown to you, will you be able to identify them?

A Yes, Sir.

Q Alright, I have here with me these drugs specimens[.] Kindly take a look at them and tell this Honorable Court what relation have these drugs specimens to those drugs confiscated by you on June 22, 2004 from the accused Bernabe Bartolini?

A This Exhibit “E” with markings “E-D-292-04” were the ones confiscated from Bernabe Bartolini on that day.

Q Who placed the markings here?

A **I don’t know, Your Honor.** But, I made a marking inside this “A”.

Q There is a masking tape around the plastic transparent cellophane with marking “A-D-292-04”. Do you know who made these markings?

A **I don’t know.** I already have a marking inside Alpha.

Q How about this “E-1”? There is also a masking tape marked “D-292-04”?

A I think that represents the Chemistry Report, Your Honor.²⁵
(Emphasis supplied)

SPO4 Larot categorically stated that he did not know who placed the other markings on the seized items, although he offered his view that it represents the Chemistry Report. However, the prosecution did not formally offer the testimony of Police Senior Inspector and Forensic Chemist April Garcia Carbajal, who prepared such Chemistry Report.²⁶ While the testimony of the forensic chemist was dispensed with,²⁷ the prosecution failed to identify such markings in other ways, such as an affidavit, to establish the unbroken chain of custody of the seized items. In fact, there is

²³ *People v. Doria*, 361 Phil. 595 (1999), citing *People v. Tadepa*, 314 Phil. 231 (1995) and *People v. Crisostomo*, G.R. No. 97427, 24 May 1993, 222 SCRA 511, 515.

²⁴ *Id.*

²⁵ TSN, 11 May 2005, p. 11.

²⁶ Records, p. 164.

²⁷ *Id.* at 137.

no evidence as to who handled the seized items after SPO4 Larot turned them over to the laboratory. SPO4 Larot also did not categorically state in his testimony to whom the seized items were turned over to in the laboratory. This failure raises questions as to who exercised custody and possession of the specimen in the laboratory, as well as the manner it was handled, stored and safeguarded pending its offer in court. In *People v. Coreche*, we held that the failure of the prosecution to provide details pertaining to the post-examination custody of the seized item created a gap in the chain of custody which again raises reasonable doubt on the authenticity of the *corpus delicti*.²⁸ This also applies in this case, where the prosecution failed to offer any details in the links pertaining to the seized items after they were allegedly turned over by SPO4 Larot to the laboratory which failure casts doubt on the integrity and evidentiary value of the *corpus delicti*.

Based on the foregoing, we find that the prosecution failed to establish an unbroken chain of custody, and the *corpus delicti* of the crime was not sufficiently proven.

Aside from the points raised by Bartolini on the chain of custody and *corpus delicti*, we find that the first element of the crime involving the sale of illegal drugs – that the transaction or sale took place – was also not sufficiently proven by the prosecution. The non-presentation of the poseur-buyer was fatal to the prosecution as nobody could competently testify on the fact of sale between Bartolini and the poseur-buyer. In this case, SPO4 Larot admitted that he did not hear the conversation between the poseur-buyer and Bartolini, and that he only saw the pre-arranged signal before apprehending Bartolini:

ATTY. MALANOG:

Q While the buy-bust operation was ongoing, you were inside the store[.] The store was how many meters away from the house of Bernabe Bartolini?

A Five (5) to eight (8) meters away.

Q Now, how many houses were in-between the store and the house of Bernabe Bartolini?

A There was none.

Q It's in the opposite area of the road?

A It was only divided by the road. What I mean is that in this area is the store and across the road is the house of Bernabe Bartolini.

Q How about the decoy, where was he situated?

A In front of the store.

Q Why? You mean Bernabe Bartolini was inside the store?

A Our decoy was in the store. Few minutes later, Bernabe Bartolini approached our decoy.

²⁸ *People v. Coreche*, supra note 15, at 1250-1251.

- Q When Bernabe Bartolini approached your decoy, what did Bernabe Bartolini tell your decoy?
- A **I cannot hear because they were at a distance[.]** But, when I looked at them, our decoy showed the money and gave it to Bernabe Bartolini.
- Q You have not heard the conversation between Bernabe Bartolini and your decoy and you only saw your decoy handing the money to Bernabe Bartolini?
- A Yes, Ma'am.
- Q And how many minutes elapsed before Bernabe Bartolini gave the twenty-six (26) marijuana cigarettes from the time he received the money?
- A More than a minute.
- Q More than a minute[.] **Because you were inside the store and you did not actually hear the conversation and what were they talking about[.] The only time you knew that the transaction was consummated was when he put his white towel on his shoulder?**
- A **Yes, Ma'am.**
- Q Which shoulder? Right or left?
- A Right shoulder.
- Q So, before the decoy gave the pre-arranged signal, you had no idea that the transaction was already consummated because you waited for that signal?
- A We were always waiting for the signal.
- Q My question is this: The only time that you knew that the transaction was consummated was when the decoy put his towel on his shoulder[.] **But, before that, you were not sure whether the transaction was already consummated because you were waiting for the signal?**
- A **Yes, Ma'am. That was my briefing. That was my instruction.**²⁹ (Emphasis supplied)

As SPO4 Larot could not hear the conversation between Bartolini and the poseur-buyer, his testimony was mere hearsay and thus the prosecution failed to prove the fact of the transaction. The non-presentation of the poseur-buyer was fatal to the prosecution. In *People v. Polizon*, we held:

We agree with the appellant's contention that the non-presentation of Boy Lim, the alleged poseur-buyer, weakens the prosecution's evidence. Sgt. Pascua was not privy to the conversation between Lim and the accused. He was merely watching from a distance and he only saw the actions of the two. As pointed out by the appellant, Sgt. Pascua had no personal knowledge of the transaction that transpired between Lim and the appellant. Since appellant insisted that he was forced by Lim to buy the marijuana, it was essential that Lim should have been presented to rebut accused's testimony.³⁰

While there have been instances where the Court affirmed the conviction of an accused notwithstanding the non-presentation of the

²⁹ TSN, 11 May 2005, pp. 14-15.

³⁰ 288 Phil. 821, 826-827 (1992).

poseur-buyer in a buy-bust operation, this is only when the testimony of such poseur-buyer is merely corroborative, and another eyewitness can competently testify on the sale of the illegal drug.³¹ In this case however, the lone witness for the prosecution was not competent to testify on the sale of the illegal drug as he merely relied on the pre-arranged signal to apprehend Bartolini.

We also find that the marked money presented by the prosecution as evidence raises questions as to the alleged transaction between the poseur-buyer and Bartolini. While SPO4 Larot testified that the transaction was for One Hundred Pesos (₱100) worth of marijuana, the money that was actually marked was only Eighty Pesos (₱80) – One Fifty Peso bill, one Twenty Peso bill, and one Ten Peso bill. No explanation was given as to why the remaining Twenty Pesos (₱20) was not marked:

ATTY. MALANOG (To the witness)

Q Mr. Witness, I heard when you said in your direct-testimony that when you arrested the accused, you recovered from him the marked money, but, only ₱80.00. Tell this Court how much did you actually recover from him when you subjected him to a body search?

A ₱100.00, Your Honor. But, the marked money was only ₱80.00.

Q Yes. But you only produced ₱80.00. Where is now the other ₱20.00 not listed in the Certificate of Inventory that you prepared?

A It was listed, Your Honor.

Q Where?

A At the bottom, listed there are five (5) pieces of ₱20.00 bills[.] And, I think I have exhibited the ₱100.00.

Q Why there are now five (5) pieces of ₱20.00 bills?

A I have submitted it to the Court as exhibits.³²

While it is not essential that the marked money be presented in court or that the money used in the buy-bust operation be marked,³³ we find that the discrepancy in the marked money, taken together with the other gaps and lapses in this case, raises questions on the transaction that allegedly took place. In *People v. Cruz*,³⁴ where the Court held that the failure to use marked money or to present it in evidence is not material since the sale cannot be essentially disproved by the absence thereof, the poseur-buyer was presented as a witness, and there was a direct testimony to establish that the transaction involving the illegal drug indeed took place. This is in stark contrast to the case at bar, as the testimony of the poseur-buyer was not offered in evidence. SPO4 Larot did not hear the conversation between the poseur-buyer and Bartolini. The marked money was not equal to the amount of the alleged transaction. Considering that the team had already conducted

³¹ See *People v. Guzon*, 719 Phil. 441 (2013), citing *People v. Orteza*, 555 Phil. 700, 709 (2007); *People v. Ambrosio*, 471 Phil. 241 (2004).

³² TSN, 11 May 2005, p. 13.

³³ *People v. Cruz*, 667 Phil. 420 (2011).

³⁴ *Id.*

a test-buy a few days prior, they should have been more prepared for the buy-bust operation, which includes the preparation of the marked money. All of these, taken in totality, create doubt as to the fact of sale between the poseur-buyer and Bartolini.

It is well-settled in criminal law that the conviction of an accused must be based on the strength of the prosecution's evidence and not on the weakness or absence of evidence of the defense.³⁵ Bartolini has the constitutional presumption of innocence in his favor which outweighs the presumption of regularity of duties of the policemen involved. Conviction must stand on the strength of the prosecution's evidence, and not on the weakness of the defense – the prosecution must be able to prove beyond reasonable doubt that the accused is guilty of the crime charged.³⁶ In this case however, we find that the prosecution fell short in proving beyond reasonable doubt that the accused is indeed guilty of the crime charged.

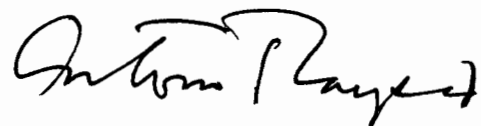
In sum, this Court finds that the prosecution failed (1) to establish an unbroken chain of custody of the seized items; (2) to prove the *corpus delicti* of the crime; (3) to offer any justifiable reason for the non-compliance with Section 21 of RA 9165; and (4) to establish the fact of sale between the poseur-buyer and Bartolini. There is a failure on the part of the prosecution to prove beyond reasonable doubt the guilt of Bartolini – he should be acquitted of the crime charged.

WHEREFORE, the appeal is **GRANTED**. The assailed 13 August 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00550-MIN, which affirmed the 16 November 2006 Judgment of the Regional Trial Court of Cagayan de Oro City, Branch 25, in Criminal Case No. 2004-797, is **REVERSED** and **SET ASIDE**.

Accordingly, appellant Bernabe M. Bartolini is **ACQUITTED** on reasonable doubt.

The Director of the Bureau of Corrections is directed to cause the immediate release of appellant, unless the latter is being lawfully held for another cause, and to inform the Court of the date of his release or reason for his continued confinement within five (5) days from notice.

SO ORDERED.



ANTONIO T. CARPIO
Associate Justice

³⁵ *People v. Suan*, 627 Phil. 174, 192-193 (2010), citing *People v. Teves*, 408 Phil. 82, 102 (2001).

³⁶ *People v. Mendoza*, 736 Phil. 749 (2014), citing *People v. Belocura*, 693 Phil. 476 (2012) further citing *Patula v. People*, 685 Phil. 376 (2012).

WE CONCUR:


ARTURO D. BRION
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

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.


ANTONIO T. CARPIO
Associate Justice
Chairperson

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