



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 232381

Present:

CARPIO, J.,  
*Chairperson,*  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JR., JJ.

- versus -

Promulgated:

RYAN MARALIT y CASILANG,  
Accused-Appellant.

01 AUG 2018

*H.M. Cabalag Jr.*

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DECISION

REYES, JR., J.:

This is an appeal<sup>1</sup> from the Decision<sup>2</sup> dated December 22, 2016 of the Court of Appeals (CA) rendered in CA-G.R. CR-HC No. 06464, which affirmed the Judgment<sup>3</sup> dated October 16, 2013 of the Regional Trial Court (RTC) of Agoo, La Union. In these decisions, accused Ryan Maralit y Casilang (Maralit) was found guilty of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act.

<sup>1</sup> Rollo, pp. 20-21.

<sup>2</sup> Penned by Associate Justice Ramon Paul L. Hernando, with Associate Justices Jose C. Reyes, Jr. and Stephen C. Cruz concurring; id. at 2-19.

<sup>3</sup> CA rollo, pp. 46-62.

*Reyes*

### Factual Antecedents

Maralit was charged with the offense of illegal trade, transport, and delivery of dangerous drugs, punishable under Section 5, Article II of R.A. No. 9165. The Information against him was docketed as Criminal Case No. A-6046, which reads:

#### Criminal Case No. A-6046

That on or about the 19<sup>th</sup> day of July 2011, in the Municipality of Sto. Tomas, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above named accused did then and there, willfully, unlawfully and knowingly, trade, transport, deliver and give away two (2) bricks of marijuana to IO1 EFREN L. ESMIN with a total weight of ONE THOUSAND EIGHT HUNDRED FIFTY-NINE POINT NINETY-SEVEN (1,859.97) grams, a dangerous and prohibited drug, without any authority of law.

Contrary to the provision of Section 5, Art. II of R.A. 9165.<sup>4</sup>

During the arraignment on August 17, 2011, the charge against Maralit was read to him in the Pangasinan dialect, a language he knew and understood. Maralit, with the assistance of his counsel, pleaded not guilty to the offense.<sup>5</sup>

The prosecution alleged that on July 19, 2011, IA3 Dexter B. Asayco (IA3 Asayco), the team leader of the Philippine Drug Enforcement Agency-La Union Special Enforcement Team (PDEA-LUSET), received information from a confidential informant that an individual known as "RAM," who comes from Dagupan City, Pangasinan, was a known dealer of *marijuana*.<sup>6</sup> The confidential informant described "RAM" as 5'11" in height, with an athletic built.<sup>7</sup>

Following his receipt of this information, IA3 Asayco called for a briefing at around 9:00 a.m. regarding a planned entrapment operation against "RAM" later in the day.<sup>8</sup> Soon after, at 9:15 a.m., IA3 Asayco coordinated with the team leader of the La Union Provincial Anti-Illegal Drug Special Operation Task Group (PAIDSOTG), Police Chief Inspector Erwin Dayag (PCI Dayag). In response, PCI Dayag instructed a member of his team, Police Officer 2 Froilan D. Caalim (PO2 Caalim), to proceed to the PDEA office for the briefing.<sup>9</sup>

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<sup>4</sup> Records, p. I.

<sup>5</sup> Id. at 40.

<sup>6</sup> Id. at 153.

<sup>7</sup> TSN, October 24, 2011, p. 12.

<sup>8</sup> Id. at 6.

<sup>9</sup> Id. at 8; records, p. 153.

*Meyer*

During the briefing, IA3 Asayco informed his team that the confidential informant gave “RAM” the cellphone number of the PDEA-LUSET, under the guise of an interested buyer of *marijuana* from Tarlac. “RAM,” in several text messages, introduced himself as the cousin of the confidential informant and informed them that he had two (2) bricks of dried *marijuana* he can deliver to an interested buyer.<sup>10</sup>

IA3 Asayco then passed the cellphone to IO1 Efren L. Esmin (IO1 Esmin), a member of his team, and tasked him to make arrangements with “RAM” for the delivery of the *marijuana*. IO1 Esmin exchanged text messages with “RAM,” and thereafter, “RAM” agreed to deliver the two (2) bricks of *marijuana* for Php 5,300.00 each (or an aggregate amount of Php 10,600.00). They also agreed to meet at Barangay Damortis, Sto. Tomas, La Union at 6:00 p.m. that day, to complete the transaction.<sup>11</sup>

IO1 Esmin and PO2 Caalim were designated as the arresting officers, while the rest of the team were tasked to secure the area.<sup>12</sup> The briefing ended at around 12:00 noon, and after about an hour, the team proceeded to Sto. Tomas, La Union Police Station using a private vehicle. The team arrived at the police station at around 2:30 p.m., where they passed the time before the designated meeting time with “RAM.”<sup>13</sup>

The team left the police station at around 4:30 p.m. and arrived at the target area by 5:00 p.m. Upon their arrival, the members of the team surveyed the area and positioned themselves according to the plan.<sup>14</sup> At about 5:30 p.m., IO1 Esmin received a text message from “RAM” telling him that he was on his way aboard a bus, and identified a certain store as their meeting place. IO1 Esmin then waited for “RAM” outside the said store, while PO2 Caalim positioned himself across the street.<sup>15</sup>

At around 6:30 p.m., a man that matched the physical description of “RAM” approached IO1 Esmin. The man was holding a brown paper bag and he asked IO1 Esmin to confirm that he was the man from Tarlac. When IO1 Esmin answered in the affirmative, the man handed over the brown paper bag to him. IO1 Esmin opened the brown paper bag and inspected the contents. He found a white plastic bag inside the brown paper bag, which when opened, revealed two (2) bricks of *marijuana*.<sup>16</sup>

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<sup>10</sup> TSN, October 24, 2011, p. 10.

<sup>11</sup> Id. at 11.

<sup>12</sup> Id. at 12.

<sup>13</sup> Id. at 13-14.

<sup>14</sup> Id. at 14-16.

<sup>15</sup> Id. at 17-18; TSN, November 28, 2011, p. 8; records, p. 164.

<sup>16</sup> TSN, October 24, 2011, pp. 19-21.

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When IO1 Esmín found that the brown paper bag contained substances suspected to be *marijuana*, he arrested the man later identified as accused Maralit, and informed him of his constitutional rights.<sup>17</sup> In the meantime, the other team members contacted two (2) barangay officials and a media representative to witness the marking and inventory of the illegal drugs. They were unable to obtain the presence of a Department of Justice (DOJ) representative allegedly because the entrapment operation ended after office hours, and there was no available DOJ representative beyond this time.<sup>18</sup> IO1 Esmín then frisked Maralit for dangerous weapons and discovered a cellphone in his person. They did not find any messages or a SIM card on the cellphone.<sup>19</sup>

The barangay officials and the media representative arrived at the scene about ten minutes after Maralit's arrest. IO1 Esmín proceeded to mark the evidence in the presence of the barangay officials, the media representative, and Maralit. The brown paper bag was marked as "A," the white plastic bag containing the two (2) bricks of *marijuana* was marked as "A-1," the bricks of *marijuana* were marked as "A-2" and "A-3," respectively, and the cellphone was marked as "B." Each item was also marked with IO1 Esmín's initials ("ELE"), the date ("19 July 2011"), and IO1 Esmín's signature.<sup>20</sup>

After the marking, IO1 Esmín made an inventory of the seized items.<sup>21</sup> Photographs of the marking and inventory were also taken.<sup>22</sup>

The team took Maralit and the seized items to the PDEA Regional Office 1 in Camp Diego Silang, Carlatan, San Fernando City, La Union.<sup>23</sup> IO1 Esmín then prepared the Booking Sheet and Arrest Report,<sup>24</sup> as well as the Request for Laboratory Examination.<sup>25</sup> The Request for Laboratory Examination was signed by IA3 Asayco, and later on delivered by IO1 Esmín to Lei-Yen Valdez (Valdez) of the PDEA Regional Office 1 Laboratory at 7:30 p.m. of the same day.<sup>26</sup>

The chemistry report yielded a positive result for the presence of *marijuana* in the specimen samples taken from the pieces of evidence marked as "A-2" and "A-3."<sup>27</sup>

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<sup>17</sup> Id. at 21.  
<sup>18</sup> Id. at 22-23.  
<sup>19</sup> Id. at 23-24.  
<sup>20</sup> Id. at 25, 33-36; records, pp. 155-156.  
<sup>21</sup> TSN, October 24, 2011, pp. 30-33.  
<sup>22</sup> Id. at 26.  
<sup>23</sup> Id. at 36-37.  
<sup>24</sup> Records, p. 159.  
<sup>25</sup> Id. at 162.  
<sup>26</sup> Id.  
<sup>27</sup> Id. at 163.

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After the presentation and offer of the prosecution's evidence, Maralit filed a Demurrer to Evidence on June 13, 2013. He alleged that the prosecution's evidence was insufficient to find him guilty beyond reasonable doubt of the crime charged. Particularly, Maralit pointed out that the money used for the entrapment operation was not even marked or presented before the trial court, which negates the presence of a consideration for the sale of the subject drugs—an essential element of Section 5, Article II of R.A. No. 9165.<sup>28</sup> He also argued that the absence of the DOJ representative during the marking and inventory of the seized items casts doubt on their identity and integrity, which warrants his acquittal.<sup>29</sup> The prosecution objected to the Demurrer to Evidence.<sup>30</sup>

In an Order<sup>31</sup> dated July 23, 2013, the RTC denied Maralit's Demurrer to Evidence for lack of merit. The trial court further ruled that since the demurrer was filed without leave of court, Maralit was deemed to have waived the right to present his evidence and the case was submitted for decision.<sup>32</sup>

### **Ruling of the RTC**

In the Judgment<sup>33</sup> dated October 16, 2013 of the RTC, Maralit was found guilty beyond reasonable doubt for the violation of Section 5, Article II of R.A. No. 9165, thus:

WHEREFORE, in view of all the foregoing, this Court finds accused [MARALIT] GUILTY BEYOND REASONABLE DOUBT of violation of Section 5 of [R.A.] No. 9165 and hereby sentences him to suffer the penalty of life imprisonment, the accused shall be credited in the service of his sentence with his preventive imprisonment under the terms and conditions set forth by Article 29 of the Revised Penal Code and to pay a fine of five hundred thousand pesos (Php500,000.00).

The items subject of the case, particularly the two (2) bricks of *marijuana* with a total weight of 1,859.97 grams shall be forfeited in favor of the government and shall be destroyed in accordance with law.

Agoo, La Union, October 16, 2013.<sup>34</sup>

The trial court ruled that it was unnecessary for the prosecution to present the money used for the entrapment operation. The RTC further found that the chain of custody was sufficiently established despite the absence of a DOJ representative during the marking of the seized pieces of

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<sup>28</sup> Id. at 167-168.

<sup>29</sup> Id. at 169.

<sup>30</sup> Id. at 172-176.

<sup>31</sup> Id. at 177-178.

<sup>32</sup> Id. at 178.

<sup>33</sup> Id. at 187-203.

<sup>34</sup> Id. at 203.

*Meyer*

evidence. Thus, the integrity and evidentiary value of the illegal drugs taken from Maralit were preserved.<sup>35</sup>

Aggrieved, Maralit filed a Notice of Appeal with the RTC on October 23, 2013.<sup>36</sup> The RTC granted the appeal in its Order<sup>37</sup> dated October 29, 2013.

In his brief, Maralit alleged that the trial court erred in finding him guilty of the offense charged against him, considering that the prosecution failed to prove his guilt beyond reasonable doubt. According to Maralit, the testimonies of the prosecution witnesses were contrary to the common experience and observation of mankind, especially pointing out the absence of a consideration for the alleged purchase of the seized marijuana bricks.<sup>38</sup> Maralit further assailed the inconsistencies in the testimony of IO1 Esmín and the documentary evidence of the prosecution,<sup>39</sup> as well as the failure of the PDEA officers to comply with the chain of custody rule.<sup>40</sup>

The People, on the other hand, argued that there was sufficient proof to establish Maralit's guilt beyond reasonable doubt. According to the prosecution, it was unnecessary to present the marked money used for the entrapment operation. Section 5, Article II of R.A. No. 9165 punishes the mere act of delivering dangerous drugs, even without a consideration. The People also refuted the argument of Maralit regarding the break in the chain of custody, and pointed out that by virtue of his admissions in the RTC, the integrity of the seized illegal drugs was preserved.<sup>41</sup>

### **Ruling of the CA**

In a Decision<sup>42</sup> dated December 22, 2016, the CA denied the appeal and affirmed the judgment of the RTC, thus:

WHEREFORE, the instant appeal is DENIED. The assailed Decision dated October 16, 2013 of the [RTC], Branch 32 of Agoo, La Union in Criminal Case No. A-6046 is hereby AFFIRMED.

SO ORDERED.<sup>43</sup>

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<sup>35</sup> Id. at 200-202.

<sup>36</sup> Id. at 205.

<sup>37</sup> Id. at 208.

<sup>38</sup> CA *rollo*, p. 37.

<sup>39</sup> Id. at 39-40.

<sup>40</sup> Id. at 40-42.

<sup>41</sup> Id. at 81-86.

<sup>42</sup> Id. at 95-112.

<sup>43</sup> Id. at 112.

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The CA found that the prosecution sufficiently established the chain of custody of the illegal drugs. The inconsistency as to the time stated by IO1 Esmin in his testimony and the time reflected in the Request for Laboratory Examination, was deemed a trivial matter that does not affect the integrity and evidentiary value of the seized illegal drugs.<sup>44</sup> Considering that IO1 Esmin was the only person in custody of the seized items until it was turned over to the forensic chemist for examination, the CA ruled that the chain of custody was adequately established.<sup>45</sup>

Unsatisfied with the decision of the CA, Maralit appealed his conviction to the Court.<sup>46</sup> The CA gave due course to the appeal in its Resolution<sup>47</sup> dated January 25, 2017.

### **Ruling of the Court**

The issue presented before the Court is whether the guilt of Maralit was proven beyond reasonable doubt. For purposes of resolving this issue, the Court must review whether the identity and the integrity of the seized illegal drugs—the *corpus delicti* of this case—were duly preserved.

There being no evidence that the chain of custody over the illegal drugs was broken, the Court finds that the guilt of the accused was proven beyond reasonable doubt.

The Court denies the present appeal.

***A conviction for violating Section 5, Article II of R.A. No. 9165 does not always require the presentation of the marked money.***

The Information against Maralit charged him with the violation of Section 5, Article II of R.A. No. 9165. It further alleged that Maralit “willfully, unlawfully[,] and knowingly trade[d], transport[ed], deliver[ed] and [gave] away two (2) bricks of *marijuana*” to IO1 Esmin.<sup>48</sup> Maralit alleged that in order to be convicted under this provision, the prosecution should have established the consideration for his supposed sale of the *marijuana* bricks.<sup>49</sup>

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<sup>44</sup> Id. at 104.

<sup>45</sup> Id. at 105-111.

<sup>46</sup> Id. at 116.

<sup>47</sup> Id. at 123.

<sup>48</sup> Records, p. 1.

<sup>49</sup> Id. at 167; *See also CA rollo*, p. 37.

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While an accused charged with the violation of this provision is usually caught in the act of selling illegal drugs, Section 5, Article II of R.A. No. 9165 also punishes the trade, delivery, distribution, and giving away of any dangerous drug to another. Section 3, Article I of R.A. No. 9165 defines the punishable acts of “*deliver*” and “*trading*” as follows:

(k) Deliver. – Any act of knowingly passing a dangerous drug to another, personally or otherwise, and by any means, **with or without** consideration.

x x x x

(jj) Trading. – Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, email, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions **whether for money or any other consideration** in violation of this Act. (Emphasis and underscoring Ours)

Clearly, the presence (or absence) of consideration in exchange for the delivery of dangerous drugs is not material when an accused is charged with committing the other acts punishable under Section 5, Article II of R.A. No. 9165. The act of giving away, transporting, or delivering the two (2) bricks of *marijuana* is already a punishable act in itself.<sup>50</sup>

In *People v. De la Cruz*,<sup>51</sup> the Court held that the presentation of the marked money, as well as the fact that the money was paid in exchange for the delivery of dangerous drugs, were unnecessary to consummate the crime, thus:

[E]ven if the money given to De la Cruz was not presented in court, the same would not militate against the People’s case. In fact, there was even no need to prove that the marked money was handed to the appellants in payment of the goods. The crime could have been consummated by the mere delivery of the prohibited drugs. What the law proscribes is not only the act of selling but also, albeit not limited to, the act of delivering. In the latter case, **the act of knowingly passing a dangerous drug to another personally or otherwise, and by any means, with or without consideration, consummates the offense.**<sup>52</sup> (Emphasis Ours)

As applied in the present case, the prosecution correctly charged Maralit with the violation of Section 5, Article II of R.A. No. 9165. Maralit could not be accused of the illegal sale of dangerous drugs because the transaction was not consummated prior to his arrest—there being no money taken in return for the *marijuana* bricks. This notwithstanding, his mere act

<sup>50</sup> *People v. Asislo*, 778 Phil. 509, 519 (2016).

<sup>51</sup> 263 Phil. 340 (1990).

<sup>52</sup> *Id.* at 350.

*Meyer*



of delivering and conveying these *marijuana* bricks to IO1 Esmin already constitutes a violation of Section 5, Article II of R.A. No. 9165.

It was therefore unnecessary for the prosecution to present the money used in the entrapment operation in order to prove Maralit's guilt beyond reasonable doubt. In the same manner, neither may Maralit disprove the fact of delivery by simply pointing out that there was no consideration received in exchange for the dangerous drugs.

***The prosecution was able to establish an unbroken chain of custody.***

In any case, the prosecution still bore the burden of proving the identity and integrity of the *corpus delicti*, which in this case is the seized bricks of *marijuana*. This is accomplished by proving an unbroken chain of custody, to ensure that the items presented before the trial court are the same items taken from the accused. The chain of custody rule thus serves as a mode of authenticating evidence that removes doubts regarding the identity of the evidence presented in court.<sup>53</sup>

In *People v. Kamad*,<sup>54</sup> the Court identified the following links in the chain of custody, which the prosecution should establish:

*First*, the seizure and marking, if practicable, 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 of the illegal drug 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>55</sup>

Each link is discussed sequentially to determine whether the prosecution was able to discharge its burden of proving the identity and integrity of the *corpus delicti* in this case.

*The First Link: the seizure, marking, and inventory of the illegal drugs taken from Maralit.*

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<sup>53</sup> *People of the Philippines v. Salim Ismael y Radang*, G.R. No. 208093, February 20, 2017; *See also Mallillin v. People*, 576 Phil. 576 (2008).

<sup>54</sup> 624 Phil. 289 (2010).

<sup>55</sup> *Id.* at 304.

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Section 21(1) of R.A. No. 9165 provides the procedure for the custody and disposition of confiscated, seized, or surrendered dangerous drugs.<sup>56</sup> This provision specifically requires the apprehending officers to *immediately* conduct a physical inventory and to photograph the seized items in the presence of the following: (a) the accused or the person from whom the items were confiscated, or his representative or counsel; (b) a representative from the media; (c) a representative from the DOJ; and (d) any elected public official. They should also sign the inventory and be furnished a copy thereof.

Here, it is evident from the records that the marking and inventory of the two (2) bricks of *marijuana* were immediately conducted at the place of the arrest, soon after these items were taken from Maralit. Between Maralit's arrest and the marking of the items, only ten (10) minutes passed, which the prosecution adequately justified as the time spent by the apprehending team waiting for the arrival of the witnesses to the marking and inventory.<sup>57</sup>

Furthermore, during the marking and inventory of the seized items, there were two (2) barangay officials and one (1) media representative present. While there was no DOJ representative to witness the marking and inventory, IO1 Esmin and PO2 Caalim explained that they were no longer able to contact a representative from the DOJ because by the time they were finished with the entrapment operation, it was beyond office hours.<sup>58</sup>

The Court does not lose sight of the fact that under various field conditions, compliance with the requirements under Section 21 of R.A. No. 9165 may not always be possible.<sup>59</sup> Thus, while the presence of all these witnesses are ordinarily required, non-compliance is excusable when the integrity and the evidentiary value of the seized items were properly preserved. There should also be proper justification for the arresting officers' failure to comply with the procedure under Section 21 of R.A. No. 9165.<sup>60</sup>

Considering that the police officers explained the absence of the DOJ representative, coupled with the fact that they endeavored to comply with the mandatory procedure by securing the presence of elected officials and a representative from the media, their failure to strictly observe Section 21 of R.A. No. 9165 is not fatal to the case. The integrity and evidentiary value of

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<sup>56</sup> See Implementing Rules and Regulations of R.A. No. 9165, Section 21(a); See also PDEA Guidelines on the Implementing Rules and Regulations of Section 21 of R.A. No. 9165 as Amended by R.A. No. 10640 (May 28, 2015).

<sup>57</sup> TSN, October 24, 2011, p. 23.

<sup>58</sup> Id. at 22-23; TSN, March 19, 2012, p. 8.

<sup>59</sup> *People v. Sanchez*, 590 Phil. 214, 234 (2008).

<sup>60</sup> *People of the Philippines v. Eddie Barte y Mendoza*, G.R. No. 179749, March 1, 2017.

*Meyer*

the seized evidence were nonetheless preserved because there were other witnesses to the marking and inventory of the seized bricks of *marijuana*. Two (2) barangay officials and a representative from the media were present during this stage, photographs were taken, and an inventory signed by these witnesses was prepared.<sup>61</sup> Furthermore, while the inventory does not bear the signature of Maralit, the photographs show that Maralit was present during the marking and inventory of the seized items.<sup>62</sup>

Notably, the subsequent amendment of Section 21 of R.A. No. 9165 requires only an elected public official, and a representative of the National Prosecution Service *or* the media, to witness the marking and physical inventory of the seized items.<sup>63</sup> The Court also explained in *Lescano v. People*<sup>64</sup> that the media representative may witness the marking and inventory as an alternative to a DOJ representative:

Moreover, Section 21(1) requires at least three (3) persons to be present during the physical inventory and photographing. These persons are: first, the accused or the person/s from whom the items were seized; second, an elected public official; and third, a representative of the National Prosecution Service. **There are, however, alternatives to the first and the third.** As to the first (i.e., the accused or the person/s from whom items were seized), there are two (2) alternatives: first, his or her representative; and second, his or her counsel. **As to the representative of the National Prosecution Service, a representative of the media may be present in his or her place.**<sup>65</sup> (Emphasis Ours)

Verily, the presence of the other witnesses, the immediate marking and inventory conducted after Maralit's arrest, and the photographs taken during that time, all attest to the identity and integrity of the seized dangerous drugs. Therefore, the first link in the chain of custody was sufficiently established in this case.

*The Second and Third Links: the turnover of the seized drugs by the apprehending officer to the investigating officer, and in turn, to the forensic chemist.*

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<sup>61</sup> Records, pp. 155-158.

<sup>62</sup> Id. at 157-158.

<sup>63</sup> R.A. No. 10640 or AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002," Section 1. Approved on July 15, 2014.

<sup>64</sup> 778 Phil. 460 (2016).

<sup>65</sup> *Lescano v. People*, id. at 475. See also PDEA Guidelines on the Implementing Rules and Regulations of Section 21 of Republic Act No. 9165 as Amended by Republic Act No. 10640, Section 1(A.1.5). Approved on May 28, 2015.

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The second and third links in the chain of custody refer respectively to the turnover of the seized drugs by the apprehending officer to the investigating officer, and subsequently, by the investigating officer to the forensic chemist for examination. In this case, IO1 Esmin was the sole custodian of the seized items from the time Maralit was arrested, to the moment they returned to their office, and until such time that he turned it over to the forensic chemist:

Assistant Provincial Prosecutor Gaudencio G. Valdez, Jr.:

Now from the place where you arrested [RAM], where did you bring these items identified as brown paper bag, sando bag and two (2) bricks?

IO1 Esmin:

In our office, sir.

Q: Who was in possession of these items going to your office at the PDEA, San Fernando City, La Union?

A: Myself, sir.

Q: Was there anybody who took hold of these items on your way to your office?

A: None, sir.

Q: Okey (*sic*). How about [RAM], where did you bring this person?

A: Also at our office, sir.

Q: While at your office, what did you do to [RAM] in order (*sic*) to identify him?

A: We conducted booking sheet, sir (*sic*).

x x x x

Q: And, what's the real name of [RAM] that you come to know when you conduct this what we call now as booking sheet and arrest report?

A: Ryan Maralit y Casilang, sir.

Q: From what place did he come from?

A: From Barangay Pantal, Dagupan City, Pangasinan sir.

x x x x

Q: What other documents did you prepare relative to the arrest of alyas [RAM] (*sic*)?

A: Laboratory request, sir for the marijuana.

Q: What else?

A: The request for physical examination sir of Ryan Maralit, sir.

x x x x

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Q: Now, the time that you were already at the PDEA office, who took custody of the bricks of marijuana, the paper bag and the sando bag?

A: Mine, sir (*sic*).

Q: Now, where did you bring the request for laboratory examination?

A: To the Chemist, we went to the PNP, Crime Laboratory, sir.

Q: Who was your chemist at the time?

A: Ms. Lei-Yen Valdez, sir.

x x x x

Q: Now, from your possession of these items particularly of the paper bag, the two (2) bricks and the sando bag, to whom did you now give possession or pass possession of these items?

A: To our chemist, sir.

Q: Do you have any evidence to show to the Honorable Court that from your possession you handed or turned-over the possession of these items to your chemist Lei-Yen Valdez?

A: Yes, sir.

Q: What is that?

A: The request, we put the time.

Q: I am showing you back the request for laboratory examination, could you point us to that portion of the request that will prove that indeed there was this turn-over of the items to be examined from your possession to the possession of your chemist?

A: Yes, sir I am the one who delivered to our chemist, sir.

Q: And, who received it?

A: Ms. Lei-Yen Valdez, sir.<sup>66</sup>

PO2 Caalim, a member of the apprehending team, corroborated the testimony of IO1 Esmin.<sup>67</sup> The documentary evidence likewise indicates that IO1 Esmin delivered the Request for Laboratory Examination to Valdez in the evening of July 19, 2011.<sup>68</sup> Thus, the prosecution was able to establish that IO1 Esmin had custody of the drugs seized from Maralit from the time of his arrest, during their transit from the place of arrest to the PDEA office, and from the PDEA office until it was submitted to the Philippine National Police (PNP) Crime Laboratory.

*The Fourth Link: the turnover and submission of the marked illegal drugs from the forensic chemist to the court.*

<sup>66</sup> TSN, October 24, 2011, pp. 36-40.

<sup>67</sup> TSN, May 14, 2012, pp. 14-17.

<sup>68</sup> Records, p. 162; Exhibit "M"

*Mejia*

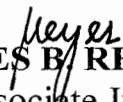
For purposes of establishing the fourth link in the chain of custody, several matters were submitted for the admission of Maralit during trial. These include the fact that: (a) Valdez, the forensic chemist, personally received the Request for Laboratory Examination, together with the specimens enumerated in the request, from IO1 Esmin;<sup>69</sup> (b) samples from the specimens were examined for the presence of dangerous drugs, which was later confirmed as positive for *marijuana*;<sup>70</sup> (c) the specimens were taken from the two (2) bricks of *marijuana* marked as “A-2 ELE 19 July 2011” and “A-3 ELE 19 July 2011,” both with signatures;<sup>71</sup> and (d) the items duly described and marked were in the custody of the forensic chemist until these were submitted to the RTC.<sup>72</sup>

By virtue of these admissions, there is no question as to the fourth link in the chain of custody. In his own testimony, IO1 Esmin identified the items brought before the trial court as the same items he seized from Maralit. He was able to identify the items by virtue of the markings placed on the bricks of *marijuana*.<sup>73</sup>

Considering that the prosecution was able to satisfactorily establish an unbroken chain of custody, the integrity and evidentiary value of the illegal drugs taken from Maralit were preserved. A review of the records and the evidence presented reveal that the RTC and the CA did not overlook factual matters that would warrant the reversal of their decisions. The Court therefore affirms the CA’s decision to uphold the conviction of Maralit.

**WHEREFORE**, premises considered, the appeal is **DENIED**. The Decision dated December 22, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06464, which found accused Ryan Maralit y Casilang guilty beyond reasonable doubt of violation of Section 5, Article II of the Comprehensive Dangerous Drugs Act, is **AFFIRMED** in all respects.

**SO ORDERED.**

  
**ANDRES B. REYES, JR.**  
Associate Justice

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<sup>69</sup> TSN, October 10, 2011, p. 4.

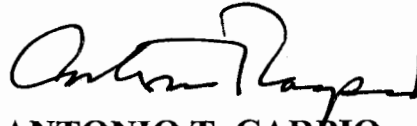
<sup>70</sup> Id. at 5.

<sup>71</sup> Id. at 11-12.

<sup>72</sup> Id. at 18-19.

<sup>73</sup> TSN, October 24, 2011, pp. 33-36.

**WE CONCUR:**



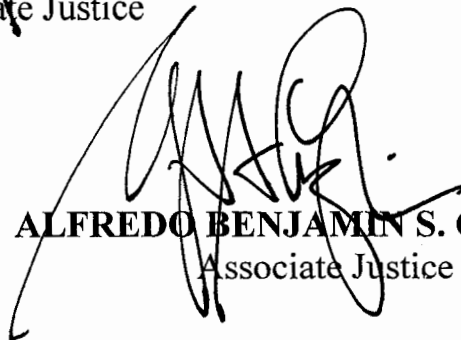
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson



**DIOSDADO M. PERALTA**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice

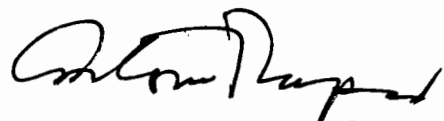


**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

*See Dissenting  
opinion.*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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.



**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, R.A. No. 296  
The Judiciary Act of 1948,  
as amended)





IA3 Asayco then passed the cellphone to IO1 Efren L. Esmin (IO1 Esmin), a member of his team, and tasked him to make arrangements with "RAM" for the delivery of the *marijuana*. IO1 Esmin exchanged text messages with "RAM," and thereafter, "RAM" agreed to deliver the two (2) bricks of *marijuana* for Php 5,300.00 each (or an aggregate amount of Php 10,600.00). They also agreed to meet at Barangay Damortis, Sto. Tomas, La Union at 6:00 p.m. that day, to complete the transaction.

IO1 Esmin and PO2 Caalim were designated as the arresting officers, while the rest of the team were tasked to secure the area. The briefing ended at around 12:00 noon, and after about an hour, the team proceeded to the Sto. Tomas, La Union Police Station using a private vehicle. The team arrived at the police station at around 2:30 p.m., where they passed the time before the designated meeting time with "RAM."

The team left the police station at around 4:30 p.m. and arrived at the target area by 5:00 p.m. Upon their arrival, the members of the team surveyed the area and positioned themselves according to the plan. At about 5:30 p.m., IO1 Esmin received a text message from "RAM" telling him that he was on his way aboard a bus, and identified a certain store as their meeting place. IO1 Esmin then waited for "RAM" outside the said store, while PO2 Caalim positioned himself across the street.

At around 6:30 p.m., a man that matched the physical description of "RAM" approached IO1 Esmin. The man was holding a brown paper bag and he asked IO1 Esmin to confirm that he was the man from Tarlac. When IO1 Esmin answered in the affirmative, the man handed over the brown paper bag to him. IO1 Esmin opened the brown paper bag and inspected the contents. He found a white plastic bag inside the brown paper bag, which when opened, revealed two (2) bricks of *marijuana*.

When IO1 Esmin found that the brown paper bag contained substances suspected to be *marijuana*, he arrested the man later identified as the accused Maralit, and informed him of his constitutional rights. In the meantime, the other team members contacted two (2) barangay officials and a media representative to witness the marking and inventory of the illegal drugs. They were unable to obtain the presence of a Department of Justice (DOJ) representative allegedly because the entrapment operation ended after office hours, and there was no available DOJ representative beyond this time. IO1 Esmin then frisked Maralit for dangerous weapons and discovered a cellphone in his person. They did not find any messages or a SIM card on the cellphone.

The barangay officials and the media representative arrived at the scene about ten minutes after Maralit's arrest. IO1 Esmin proceeded to mark the evidence in the presence of the barangay officials, the media representative, and Maralit. The brown paper bag was marked as "A," the white plastic bag containing two (2) bricks of *marijuana* was marked as "A-1," the bricks of *marijuana* were marked as "A-2" and "A-3," respectively, and the cellphone was marked as "B." Each item was also marked with IO1 Esmin's initials ("ELE"), the date ("19 July 2011"), and IO1 Esmin's signature.

After the marking, IO1 Esmin made an inventory of the seized items. Photographs of the marking and inventory were also taken.



The team took Maralit and the seized items to the PDEA Regional Office 1 in Camp Diego Silang, Carlatan, San Fernando City, La Union. IO1 Esmin then prepared the Booking Sheet and Arrest Report, as well as the Request for Laboratory Examination. The Request for Laboratory Examination was signed by IA3 Asayco, and later on delivered by IO1 Esmin to Lei-Yen Valdez (Valdez) of the PDEA Regional Office 1 Laboratory at 7:30 p.m. of the same day.<sup>3</sup>

### *No Sale of Dangerous Drugs*

In order to properly secure the conviction of an accused charged with illegal sale of dangerous drugs, the prosecution must prove: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.<sup>4</sup>

In the case at bar, it is readily apparent that no sale was consummated as the consideration, much less its receipt by the accused-appellant, were not established. As testified on by IO1 Efren L. Esmin (IO1 Esmin), the poseur-buyer:

COURT:

x x x x

**Q Are you telling me Mr. Witness that there was no exchange of goods in this case?**

**A There is but I did not give the payment, Your Honor.**

**Q The money was never handed to Ram?**

**A No, Your Honor.**

x x x x

Q What first did he do?

A He asked first if I am the man from Tarlac sir.

Q So he ask you if you were the man from Tarlac?

A Yes, sir.

Q And after you said yes, he already gave you the bag and the marijuana?

A Yes, sir.

Q Is that what you are trying to maintain to the Honorable Court?

A Yes, sir.

Q He did not ask for any other information regarding you?

A None sir.

<sup>3</sup> Ponencia, pp. 2-4.

<sup>4</sup> *People v. Sumili*, supra note 2, at 348.

**Q He did not even ask for the money?**

**A No, sir.**

**Q Considering the illegal activity of this person are they not very cautious persons?**

x x x x

**Q When Ram arrive and approach you and ask you if you were the person from Tarlac and you answered yes he immediately gave you the paper bag containing the two (2) bricks, is that what you are saying?**

**A Yes, Your Honor.**

**Q And he did not ask you to show him the money that you agreed upon?**

**A No, Your Honor because I already scrutinize the contents of that bag is marijuana I immediately arrested him Your Honor.**

**Q Before giving you the paper bag containing the bricks of marijuana did Ram ever ask you to show him the money?**

**A No, Your Honor.**

**Q So there was no time that you pulled out the money from your pocket?**

**A Yes, Your Honor.**

**Q But you have money with you when you were at the place?**

**A Yes, Your Honor.<sup>5</sup> (Emphasis supplied)**

In the recent case of *People v. Bulawan*,<sup>6</sup> where the poseur-buyer did not bring the marked money to the buy-bust operation, the Court acquitted therein accused-appellant as the prosecution was not able to prove that there was even a consideration for the supposed sale of dangerous drugs. In *People v. Dasigan*,<sup>7</sup> where the marked money was shown to therein accused-appellant but was not actually given to her as she was immediately arrested when the *shabu* was handed over to the poseur-buyer, the Court acquitted said accused-appellant of the crime of illegal sale of dangerous drugs. Citing *People v. Hong Yen E*,<sup>8</sup> the Court held therein that it is material in illegal sale of dangerous drugs that the sale actually took place, and what consummates the buy-bust transaction is the delivery of the drugs to the poseur-buyer and, in turn, the seller's receipt of the marked money. While the parties may have agreed on the selling price of the *shabu* and delivery of payment was intended, these do not prove a consummated sale. Receipt of

<sup>5</sup> TSN, November 14, 2011, pp. 7, 10-12.

<sup>6</sup> 786 Phil. 655 (2016) [Per J. Perez, Third Division].

<sup>7</sup> 753 Phil. 288 (2015) [Per J. Perez, First Division].

<sup>8</sup> 701 Phil. 280, 285 (2013) [Per J. Abad, Third Division].

the marked money, whether done before delivery of the drugs or after, is required.<sup>9</sup>

Here, there is more reason to acquit accused-appellant of the crime of illegal sale of dangerous drugs as the prosecution failed to establish the identity and integrity of the *corpus delicti* of the offense charged.

In *People v. Torres*,<sup>10</sup> the Court held that the identity of the prohibited drug must be proved with moral certainty. It must also be established with the same degree of certitude that the substance bought or seized during the buy-bust operation is the same item offered in court as exhibit. In this regard, paragraph 1, Section 21, Article II of RA 9165 (the chain of custody rule) provides for safeguards for the protection of the identity and integrity of dangerous drugs seized.

*Requirements of Section 21 of RA  
9165*

Section 21(1)<sup>11</sup> of RA 9165 lays down the following mandatory requirements in the seizure and custody of seized or confiscated dangerous drugs and paraphernalia:

1. The seized items must be **physically inventoried and photographed**;
2. The initial custody requirements must be done **immediately after seizure** or confiscation;
3. The foregoing must be done **in the presence of**:
  - a. The **accused** or his representative or counsel; **and**
  - b. The **required witnesses**:
    - i. a representative from the **media** and the **Department of Justice (DOJ)**, and any **elected public official** for

<sup>9</sup> *People v. Dasigan*, supra note 7, at 306.

<sup>10</sup> 710 Phil. 398, 408 (2013) [Per J. Perez, Second Division].

<sup>11</sup> 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[.]



offenses committed during the effectivity of RA 9165 and prior to its amendment by RA 10640<sup>12</sup>;

- ii. with an **elected public official** and a representative from the **National Prosecution Service of the DOJ or the media** for offenses committed during the effectivity of RA 10640.<sup>13</sup>

Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165 filled in the details as to where the initial custody requirements should be done, *i.e.*, at the place of seizure, at the nearest police station or at the nearest office of the apprehending officer/team, *whichever is practicable*. Further, the following “saving clause” was added in cases where there is justifiable deviation from the mandatory procedure:

**x x x 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[.]**<sup>14</sup> (Emphasis supplied)

In cases involving dangerous drugs, the drug itself constitutes the *corpus delicti* of the offense.<sup>15</sup> Thus, strict compliance with the requirements of Section 21 is mandatory in order to dispel any doubt as to the source, identity, and integrity of the seized drugs.<sup>16</sup> However, following the IRR of RA 9165, non-compliance may be condoned if the following requisites are availing: (1) the existence of “justifiable grounds” allowing departure from

<sup>12</sup> AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE “COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,” approved on July 15, 2014.

<sup>13</sup> RA 10640 amended Section 21 of RA 9165, 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 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.** (Emphasis supplied)

<sup>14</sup> IRR of RA 9165, Sec. 21(a).

<sup>15</sup> *People v. Suan*, 627 Phil. 174, 179 and 188 (2010) [Per J. Del Castillo, Second Division].

<sup>16</sup> See *People v. Cayas*, 789 Phil. 70, 79-80 (2016) [Per J. Brion, Second Division]; see also *People v. Havana*, 776 Phil. 462, 475-476 (2016) [Per J. Del Castillo, Second Division].

the rule on strict compliance; **and** (2) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.

*The apprehending officers failed to comply with the requirements under Section 21 of RA 9165*

In this case, the following lapses of the buy-bust team are observed:

(1) The inventory was not conducted immediately after seizure and confiscation; and

(2) The inventory was not conducted in the presence of the required witnesses under RA 9165, namely a representative from the media and the DOJ and an elected public official.<sup>17</sup>

The testimony of IO1 Esmín, the poseur-buyer, showed that inventory was not conducted immediately after seizure and confiscation because the witnesses were merely called in after the buy-bust operation:

Q Okey. How about the paper bag containing this sando and the two (2) bricks, what did you do with that when you arrested this Ram?

A I confiscated, sir.

Q Where did you put now these items then?

A **I waited for the witnesses and conducted markings.**

Q Yes, while waiting for the witnesses, where did you put the paper bag sando bag and that of the two (2) bricks?

A At the table of that store, sir.

Q Where is that table located in relation to the store?

A Infront of the GMGK store, sir.

Q Okey. So, you waited for witnesses, who contacted the witnesses?

A My companion, sir.

Q Who were the witnesses who were contacted?

A Two (2) barangay officials in that place and the media, sir.

Q Who were these barangay officials that were contacted?

A I cannot remember their names, sir.

Q How about the media man?

A In the person of Alhambra, sir.<sup>18</sup>

<sup>17</sup> Since the offense was allegedly committed on July 19, 2011, RA 9165, the old law which requires the presence of three (3) insulating witnesses, applies in this case.

<sup>18</sup> TSN, October 24, 2011, pp. 22-23.

X X X X

**Q** And Mr. Witness, the witnesses for the inventory of course did not know where the confiscated objects came from, is that correct?

**COURT:**

**Witness may answer.**

**A** Yes, sir.

**Q** Because when they arrived the confiscated objects were already on the table?

**A** Yes, sir. When they arrived the evidence was at the table then we explained to them where that item came from.<sup>19</sup> (Emphasis supplied)

The *ponencia* asseverates that the buy-bust team's failure to strictly observe Section 21 of RA 9165 was not fatal to the case because the police officers explained the absence of the DOJ representative, coupled with the fact that they endeavored to comply with the mandatory procedure by securing the presence of elected officials and a representative from the media<sup>20</sup>:

**Q** Why was there no DOJ representative?

**A** It's almost 6:00 o'clock sir, we didn't contacted any DOJ, sir.

**Q** Why did you decide not to contact anymore representative from the DOJ?

**A** Because their work is only at 5:00 o'clock, sir.

**Q** Now, how long a time did you wait for these witnesses?

**A** Only ten (10) minutes, sir.

**Q** Why did it take you only ten (10) minutes to wait for these witnesses?

**A** Because the local police helped us sir to contact these witnesses, sir.

**Q** Okey. So, upon the arrival of these witnesses to the place where the arrest was done, what did you do now with these items confiscated from Ram?

**A** I conducted markings of that evidence, sir.<sup>21</sup> (Emphasis supplied)

I disagree.

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<sup>19</sup> TSN, November 14, 2011, p. 15.

<sup>20</sup> *Ponencia*, p. 10.

<sup>21</sup> TSN, October 24, 2011, p. 23.

The buy-bust team had reasonable time to secure the presence of the representative from the DOJ. The records of the case show that as early as 1:00 o'clock in the afternoon or more than five (5) hours before the buy-bust operation, the members of the buy-bust team were on their way to the area where the transaction took place. **Just as the buy-bust team sought the assistance of the local police in securing the presence of the media representative and the elected public officials, the buy-bust team could have easily made arrangements to secure the presence of a DOJ representative, prior to the closing time of the local prosecution office.**

Furthermore, I submit that the phrase “immediately after seizure and confiscation” means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. And only if this is not practicable, then the inventory and photographing should be done as soon as the apprehending team reaches the nearest police station or the nearest office. There can be no other meaning to the plain import of this requirement. By the same token, however, this also means that the DOJ or media representative and the elected public official should already be physically present at the time of apprehension — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. Simply put, the apprehending team has enough time and opportunity to bring with them said witnesses.

In other words, while the physical inventory and photographing is allowed to be done “at the nearest police station or at the nearest office of the apprehending officer/team, whichever is applicable, in case of warrantless seizures,” this does **not** dispense with the requirement of having the DOJ or media representative and the elected public official to be physically present at the time or near the place of apprehension. The reason is simple, it is at the time of arrest — or at the time of the drugs’ “seizure and confiscation” — that the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would **insulate** against the police practice of planting evidence.

Using the language of the Court in *People v. Mendoza*,<sup>22</sup> without the **insulating presence** of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drugs, the evils of switching, “planting” or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the subject bricks that were the evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.<sup>23</sup>

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<sup>22</sup> 736 Phil. 749 (2014) [Per J. Bersamin, First Division].

<sup>23</sup> Id. at 764.





Thus, it is compliance with this most fundamental requirement — the presence of the “insulating” witnesses — that the pernicious practice of planting of evidence is greatly minimized if not foreclosed altogether. Stated otherwise, this is the first and foremost requirement provided by Section 21 to ensure the preservation of the “integrity and evidentiary value of the seized drugs” in a buy-bust situation whose nature, as already explained, is that it is a planned operation.

To restate, the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs “immediately after seizure and confiscation.”

The practice of police operatives of not bringing to the intended place of arrest the DOJ or media representative and the elected public official, when they could easily do so — and “calling them in” to the police station to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs. I believe the Court should send a strong message that faithful compliance with this most important requirement — bringing them a place near the intended place of arrest — should be strictly complied with.

Given the serious substantive and procedural lapses of the police officers, and considering that the *corpus delicti* has not been proved with unwavering exactitude, an essential element of the offense is missing, the conviction of the accused-appellant cannot be upheld.<sup>24</sup>

The presumption of innocence is overturned only when the prosecution has discharged its burden of proof, that is, proving the guilt of the accused beyond reasonable doubt<sup>25</sup> — to prove each and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein.<sup>26</sup> To be sure, the concept of moral certainty is subjective. But, in our criminal justice system, **the overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains reasonable doubt as to his guilt.**<sup>27</sup>

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<sup>24</sup> See *People v. Gutierrez*, 614 Phil. 285, 293 (2009) [Per J. Carpio Morales, Second Division].

<sup>25</sup> RULES OF COURT, Rule 133, Sec. 2 provides that proof beyond reasonable doubt does not mean such a degree of proof as excluding possibility of error, produces absolute certainty. Only moral certainty is required, or that degree of proof which produces conviction in an unprejudiced mind.

<sup>26</sup> *People v. Belocura*, 693 Phil. 476, 503-504 (2012) [Per J. Bersamin, First Division].

<sup>27</sup> *People v. Pagaura*, 334 Phil. 683, 690 (1997) [Per J. Torres, Jr., Second Division]; *People v. Salangga*, 304 Phil. 571, 589 (1994) [Per J. Regalado, Second Division].



From the foregoing, all the evidence on record has not produced in my mind the conviction that accused-appellant Maralit, indeed committed the crime charged. Necessarily, accused-appellant Maralit's guilt was not proved beyond reasonable doubt.



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice