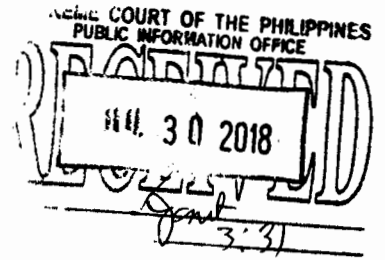




Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION



PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 227394

Present:

- versus -

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

NORJANA SOOD y AMATONDIN,
Accused-Appellant.

Promulgated:

06 JUN 2018

X-----X

DECISION

CAGUIOA, J.:

This is an Appeal¹ under Section 13, Rule 124 of the Rules of Court from the Decision² dated September 18, 2015 of the Court of Appeals, Special Eleventh Division (CA), in CA-G.R. CR-HC No. 06285. The CA Decision affirmed the Decision³ dated January 24, 2013 rendered by the Regional Trial Court of Quezon City, Branch 99 (RTC), in Criminal Case No. Q-09-156944, which found accused-appellant Norjana Sood y Amatondin (accused-appellant) guilty of violating Section 5, Article II of Republic Act No. (RA) 9165.

Facts

The Information against accused-appellant for violating Section 5, Article II of RA 9165 states:

The undersigned accuses NORJANA SOOD y AMATONDIN for Violation of Section 5, Art. II, R.A. 9165, Comprehensive Dangerous Drugs Act of 2002, committed as follows:

¹ CA rollo, pp. 144-146.

² Rollo, pp. 2-15. Penned by Associate Justice Rodil V. Zalameda, with Associate Justices Stephen C. Cruz and Pedro B. Corales concurring.

³ CA rollo, pp. 63-71. Penned by Acting Presiding Judge Maria Amifait S. Fider-Reyes.

That on or about 28th day of January, 2009 in Quezon City, accused without lawful authority did then and there willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, a dangerous drug, to wit:

five point eighty five (5.85) grams of Methylamphetamine Hydrochloride (Shabu)

CONTRARY TO LAW.⁴

The version of the prosecution is as follows:

On 28 January 2009, a certain "Florence" was apprehended in a buy-bust operation conducted by police operatives belonging to the Station Anti-Illegal Drugs-Special Operation Task Group, Kamuning Police Station (PS-10), Quezon City Police District. Upon their return to the police station, they were informed by the confidential informant that the dealer of the alleged drugs, accused-appellant, was due to arrive from Caloocan City that afternoon.

Police Senior Inspector Christopher N. Luyun, the Chief of SAID-SOTG, thereafter allowed the continuous police operation for the arrest of accused-appellant. After a briefing for accused-appellant's apprehension, the CI called the latter through a mobile phone on loudspeaker. Pretending to be Florence, the CI asked accused-appellant, "Norjana, pwede ako ulit magconsign ng isang bulto?" Accused-appellant replied: "Sige bigyan kita responde pero ang remittance ay next week" to which the CI answered: "ok, text ka na lang pag malapit ka na para pasundo kita." The CI and accused-appellant agreed to meet later that day at the place where they usually do their drug transactions.

The police operatives and the CI proceeded to the target area. When the CI saw accused-appellant, she pointed the latter to SPO1 Regato. SPO1 Regato then approached accused-appellant and asked her: "ikaw ba si Norjana, pinapasundo ka pala ni Florence." Accused-appellant replied in the affirmative and added, "ah sige, kuya puwede kayo na magbigay kay Ate Florence kasi nagmamadali ako." She then took from her right pocket two (2) transparent plastic sachets containing white crystalline substance believed to be methylamphetamine hydrochloride, commonly known as "shabu" and handed them to SPO1 Regato, who thereafter introduced himself as a police officer. Accused-appellant was then arrested and apprised of her constitutional rights. Before leaving the target area, SPO1 Regato placed the markings "AR1-28 JAN09" and "AR2-28 JAN09" on the plastic sachets.

Accused-appellant was then taken to the barangay hall. SPO1 Regato prepared the Inventory of Seized Properties/Items and the inventory was conducted before Kgd. Manette P. Salazar and Rey Argana, a media representative. Both Kgd. Salazar and Argana signed the certificate of inventory for the two (2) transparent plastic sachets. Afterwards, accused-appellant was brought to the police station. SPO1 Regato turned over the confiscated items to their investigator, PO3 Cortes, who prepared a Request for Laboratory Examination of the subject specimens. Thereafter, SPO1

⁴ Records, p. 1.



Regato submitted the evidence to the crime laboratory for examination, which gave positive results to the tests for shabu.⁵

On the other hand, the defense evidence is as follows:

Accused-appellant vehemently denied the prosecution's version of the events which occurred on 28 January 2009. She testified that on the same day, she was laying out her merchandise on the Luzon Overpass, being a sidewalk vendor, when she was apprehended by two (2) men who she thought were officers of the Metro Manila Development Authority. She was taken to the police station where allegedly, the apprehending officers demanded thirty-five thousand (₱35,000.00) pesos for her release, but she did not file any case against them. Accused-appellant denied selling shabu at the time of her arrest.⁶

The RTC convicted accused-appellant in its Decision dated January 24, 2013, the dispositive portion of which states:

PREMISES GIVEN, the Court orders the following:

i. x x x NORJANA SOOD Y AMATONDIN is found GUILTY under SECTION 5, R.A. 9165 and shall be punished with Life Imprisonment.

ii. the FINE is fixed at Five Hundred Thousand (PHP500,000.00) Pesos.

She shall be credited with the period that she has served in detention.

SO ORDERED.⁷

The RTC found that Section 21 of RA 9165 was not complied with when the inventory was not conducted on site, but excused the same on the ground that the police officers were able to explain or justify the lapses.⁸ The RTC likewise ruled that the defense evidence failed to overcome the presumption of regularity in the performance of official duty on the part of the police officers.⁹

Accused-appellant then notified the RTC of her intention to appeal to the CA.¹⁰

On appeal, the CA affirmed the RTC's conviction in its Decision dated September 18, 2015, the dispositive portion of which states:

⁵ *Rollo*, pp. 4-6.

⁶ *Id.* at 6.

⁷ *CA rollo*, pp. 70-71.

⁸ *Id.* at 67.

⁹ *Id.* at 68.

¹⁰ *Records*, p. 108.

WHEREFORE, the instant Appeal is **DENIED**. Accordingly, the Decision of the Regional Trial Court, Branch 99, Quezon City, dated 24 January 2013 is hereby **AFFIRMED in toto**.

SO ORDERED.¹¹

The CA likewise found that there was non-compliance with Section 21 of RA 9165 but still held that there was “substantial compliance” with the law because the integrity and evidentiary value of the drugs seized were preserved.¹² The CA also found that there were inconsistencies in the testimonies of the buy-bust team as to the place of inventory, but decided to treat them as “minor inconsistencies” that did not affect the credibility of the witnesses.¹³

Accused-appellant then notified the CA that she is appealing the Decision to the Court.¹⁴ Hence, this Appeal.

Issue

The principal issue is whether accused-appellant’s guilt was proven beyond reasonable doubt for violating Section 5, Article II of RA 9165.

The Court’s Ruling

The Court acquits accused-appellant.

Compliance with Section 21 of RA No. 9165 mandatory

Section 21, Article II of RA 9165 states the procedure to be followed by a buy-bust team in the seizure, initial custody, and handling of confiscated illegal drugs and/or paraphernalia. This section was amended by RA 10640¹⁵ which imposed less stringent requirements in the procedure; but the amendment was approved only on July 15, 2014. As the crime in this case was committed on January 28, 2009, the original version of Section 21 is applicable, thus:

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

¹¹ *Rollo*, p. 14.

¹² *Id.* at 10.

¹³ *Id.* at 11.

¹⁴ *Id.* at 16-18.

¹⁵ 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.”



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[.]

Here, it is undisputed, as was found by both the RTC and the CA that the prosecution failed to comply with Section 21 of RA 9165. To be sure, the findings of the CA show an utter failure on the part of the police to conduct the inventory at the place of seizure of the drugs. In this regard, the CA pointedly observed that the testimonies of the police officers were conflicting as to whether the purported inventory was conducted, whether at the barangay office or at the police station. SPO1 Armand Q. Regato (SPO1 Regato) testified that the inventory was done in the barangay hall while PO1 Andrew B. Hegu (PO1 Hegu) testified that the documentation after accused-appellant's arrest was done in the police station:

Relative thereto, accused-appellant likewise points out that SPO1 Regato and PO1 Hegu gave conflicting testimonies. **SPO1 Regato testified that the marking and inventory of the specimens were done in the barangay hall immediately after accused-appellant's apprehension. PO1 Hegu, on the other hand, testified that after the arrest, they immediately proceeded to the police station for proper documentation and did not mention that the same were done in the area of arrest nor at the barangay hall.**

Evidently, the law itself lays down exceptions to its requirements. Thus, noncompliance with the regulations is not necessarily fatal as to render an accused's arrest illegal or the items confiscated from him inadmissible as evidence of his guilt, for what is of the utmost importance is the preservation of the integrity and the evidentiary value of the confiscated items that will be utilized in the determination of his guilt or innocence. Such that, when there is a failure to follow strictly the said procedure, the crime can still be proven, *i.e.*, that the noncompliance was under justifiable grounds or that the shabu taken is the same one presented in court by proof of "chain of custody."

In the case at bar, there was substantial compliance with the law; the integrity and evidentiary value of the drugs seized being preserved. The chain of custody of the drugs subject matter of the case was established by the testimonies of the witnesses as not to have been broken. The factual milieu of the case reveals that after SPO1 Regato had obtained the prohibited drug from the accused-appellant, the latter was immediately arrested. Before leaving the target area SPO1 Regato marked the seized sachets. The accused-appellant was first taken to the barangay hall in order for SPO1 Regato to conduct an inventory of the seized items. The corresponding certificate of inventory was signed accordingly by both the barangay and media representative. Thereafter, the plastic sachets were brought to the crime laboratory to determine the presence of any prohibited



drug on the specimens submitted. And as per Chemistry Report No. D-34-09, the specimens submitted contained shabu, a dangerous drug.

While there were conflicting testimonies as to where the inventory was made, it has been held in *People vs. Alcala* that noncompliance with Section 21 of RA 9165, particularly the making of the inventory and the photographing of the drugs confiscated and/or seized, will not render the drugs inadmissible in evidence. The chain of custody of the drug subject matter of the instant case was shown not to have been broken. SPO1 Regato even explained the reason why the inventory of the seized items was done at the barangay hall instead of the place of arrest.

Jurisprudence dictates that minor inconsistencies do not affect the credibility of the witness. We have held that “discrepancies and inconsistencies in the testimonies of witnesses referring to minor details, and not in actuality touching upon the central fact of the crime, do not impair their credibility. Testimonies of witnesses need only corroborate each other on important and relevant details concerning the principal occurrence. In fact, such minor inconsistencies may even serve to strengthen the witnesses’ credibility as they negate any suspicion that the testimonies have been rehearsed.”

In reiteration, the arrest of an accused will not be invalidated and the items seized from him rendered inadmissible on the sole ground of noncompliance with Section 21, Article II of RA 9165.¹⁶ (Emphasis and underscoring supplied)

In addition, SPO1 Regato admitted that, at the time of the arrest, there were no witnesses, and that, according to him, this was the reason the inventory was conducted in the barangay hall instead of at the place of arrest of accused-appellant, thus:

- Q - Why did you not prepare the Inventory at the area of recovery and arrest of accused?
- A - It is so much better to prepare it to (sic) the Barangay so that we will have witnesses for that.¹⁷

He likewise admitted that the photographing was also conducted in the police station instead of the place of arrest, specifically at the investigation room of the police station:

- Q - Before you brought the accused for inquest, what else transpired in your Station in connection with the investigation?
- A - The investigator took pictures.
- Q - Where was it taken?
- A - At the investigation room.
- Q - And why not it (sic) was taken at the area of arrest and recover (sic)?

¹⁶ *Rollo*, pp. 10-11.

¹⁷ TSN, March 16, 2010, p. 13.



A - We do not have a camera at that time.¹⁸

Unquestionably, the prosecution failed to prove that the three required witnesses were present during the inventory and photographing of the seized drugs. As the RTC itself found, only the barangay official and media representative were present during the inventory, and they were called in only after the arrest and seizure had already happened — which may have been at the barangay hall or at the police station:

This Court is convinced, that, whatever lapses may be detected in the compliance with SECTION 21, these have been explained or justified by the Police Officers concerned.

SPO1 ARMADO REGATO in his direct testimony narrated how, through the confidential informant who had posed as a certain “Florence,” the Police Officers who were part of the operation, had contacted the Accused NORJANA SOOD Y AMATONDIN. The cell phone was on speaker mode. (TSN, ARACELI P. BONIFACIO, March 16, 2010; pp. 6 to 8.)

SPO1 ARMADO REGATO himself had approached the Accused NORJANA SOOD Y AMATONDIN. She herself handed the two (2) pieces of subject sachet specimen (marked as EXHIBIT C, C-1 and D, D-1) to the same Police Officer. SPO1 ARMADO REGATO identified the Accused NORJANA SOOD Y AMATONDIN as well as EXHIBITS C, C-1 and D, D-1 during his testimony on March 16, 2010.

Admittedly however, there was no sale. No money was exchanged from the Police Officer/Poseur and the Accused NORJANA SOOD Y AMATONDIN. The two (2) pieces of heat sealed plastic sachet were for purposes of delivery to a certain “Florence.”

Even if the inventory was conducted at the Barangay Office and not on site, the Police Officer, SPO1 ARMADO REGATO was consistent in pointing out that he has custody of the recovered specimen (EXHIBITS C, C-1, D, D-1) from the area of operation all the way up to the Barangay Hall. (TSN, ARACELI P. BONIFACIO, March 16, 2010, pp. 12 to 13.) In fact, the same Police Officer had prepared the Inventory in the presence of Witnesses. The same Police officer also prepared the request the Laboratory Examination and brought the specimen to the Crime Laboratory. (TSN, ARACELI P. BONIFACIO, March 16, 2010, p. 16.)

As Witnesses during the Inventory, there was a Barangay Kagawad and a media representative. (TSN, ARACELI P. BONIFACIO, March 16, 2010, p. 14; pp. 29 to 31.)

On cross examination, SPO1 ARMADO REGATO was able to maintain that “Florence” was another target person, one among others that operate in the area. (TSN, ARACELI P. BONIFACIO, March 16, 2010, p. 22.)¹⁹ (Emphasis and underscoring supplied)

¹⁸ Id. at 18-19.

¹⁹ CA rollo, pp. 67-68.

A reading of the testimonies of SPO1 Regato and PO1 Hega shows that they were completely silent as to whether there were any witnesses during the photographing of the seized drugs.

The plain import of Section 21 of RA 9165 is that the buy-bust team is to **conduct the physical inventory and photographing** of the seized items **immediately after seizure** and confiscation **in the presence of the accused, his counsel, or representative, a representative of the DOJ, the media, and an elected public official**, who shall be required to sign the copies of the inventory and be given a copy thereof. And only if this is not practicable, can the inventory and photographing be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team.

Here, the buy-bust team admittedly failed to comply with the foregoing requirements. *First*, the conduct of the inventory was not conducted immediately at the place of seizure and apprehension; indeed, the police officers even contradicted each other as to where the inventory was supposedly conducted. This creates a very serious doubt in the Court's mind as to whether an inventory was actually even conducted. If the members of the buy-bust team have markedly different versions of what transpired after the seizure of the items, the Court cannot rely on their testimonies on the conduct of the inventory and photographing.

Second, even assuming an inventory had been conducted, the prosecution failed to comply with the requirement that the photographing be also done at the place of arrest. The prosecution's excuse of not having a camera is flimsy as they had planned the operation. In the 1999 Philippine National Police Drug Enforcement Manual,²⁰ the buy-bust team is required to bring a camera in the conduct of buy-bust operations:

ANTI-DRUG OPERATIONAL PROCEDURES

x x x x

V. SPECIFIC RULES

A. Planning and Preparation:

x x x x

2. After identifying the suspect/s, determining their movements and activities, and establishing their locations, the following must be prepared/undertaken:

a. Buy-Bust Operations

²⁰ PNPM-D-O-3-1-99 [NG], the precursor anti-illegal drug operations manual prior to the 2010 and 2014 AIDSOTF Manual.



1. Pre-operation Order indicating the name of the suspect/s, address and area of operations, description and quantity of drugs subject of the offense and the team leader and members of operating team/s, signed by the Chief of Unit/Office or his duly authorized subordinate officer.

2. The poseur-buyer and the buy-bust money and request for dusting (ultra-violet powder) if necessary. The buy-bust money shall be covered by a receipt indicating therein the denominations and respective serial numbers of the genuine bills received. (If dusting is necessary, the poseur-buyer must be the one to deliver the buy-bust money to the PNP CLG for dusting together with appropriate request);

3. Handcuffs, ropes and other gadgets to secure the suspect/s and bags/containers to secure and preserve the evidence;

4. Vehicles, communications-electronics equipment, camera, weighing scale, indelible marking pens, firearms and other appropriate equipment/gadgets.

The reason that the buy-bust team did not have a camera is thus exposed to be nothing more than a convenient excuse that is belied by the foregoing requirements that the team ought to have followed. What makes this reason to be more incredible is that in 2009, mobile phones with cameras were already widely available. Thus, the buy-bust team's failure to even take photographs of the seized drugs at the scene of their seizure gives credence to the assertions of the accused-appellant that no buy-bust had actually taken place, and that the charge against her was completely fabricated.

Finally, and most revealing as to whether or not a buy-bust actually took place is the prosecution's abject and complete failure to comply with the requirement of bringing along the required three witnesses — from the media, the DOJ, and any elected public official. To be certain, these witnesses should already have been present at the time of apprehension and the drugs' seizure, as this is a requirement the buy-bust team could easily have complied with given the nature of a buy-bust operation as a planned activity.

The Court again takes this opportunity to emphasize that the presence of the three witnesses required by Section 21 is precisely to protect and guard against the pernicious practice of policemen in planting evidence. Without the insulating presence of the three witnesses 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 seized drugs that were evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of accused-appellant.²¹

It is truly disconcerting how the members of the buy-bust team have different testimonies on the place where the inventory was conducted. This is

²¹ *People v. Mendoza*, 736 Phil. 749, 764 (2014).

not, by any means, a “minor inconsistency,” as erroneously held by the CA. This inconsistency goes into the very heart of whether or not there really was a buy-bust operation that had been conducted.

Failure to show justifiable grounds for non-compliance and establish the chain of custody of the seized drugs

Supplementing RA 9165, Section 21(a), Article II of the Implementing Rules and Regulations of RA 9165 (IRR) states that in cases of non-compliance with the procedure for inventory and photographing, the IRR imposed the twin requirements of, *first*, there should be justifiable grounds for the non-compliance, and *second*, the integrity and the evidentiary value of the seized items should be properly preserved. Failure to show these **two conditions** renders void and invalid the seizure of and custody of the seized drugs, thus:

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[.]**

Here, the prosecution’s reason for not conducting the inventory in the place of seizure was that they supposedly wanted to avoid any commotion at the area because there would be vehicular traffic. PO2 Hega testified during his re-direct examination:

Q - You claimed that the Inventory was made not at the place of arrest Sood?

A - Yes, sir.

Q - What could be reason why it was made in the Station and not in the place of arrest?

A - According to our team leader to avoid any commotion at the area because there will be a vehicular traffic, we will proceed to our Station because it is the nearest Station and also we invite thru cellphone the Barangay Kagawad of Roxas District to witness the Inventory.²²

The foregoing reason hardly qualifies as sufficient justification for not complying with the requirements of Section 21 as to the conduct of the inventory and photographing at the place of seizure. As buy-bust operations are planned, the team could have easily ensured that the conduct of the

²² TSN, January 27, 2011, p. 26.



inventory and photographing would cause minimal disruption to the area. Similarly, in *People v. Mola*,²³ the Court considered the following excuse as hollow: the apprehending officer conducted the inventory at the nearest police station because he was the only one in the area and that there were many persons there. Also, in *People v. Cornel*,²⁴ the Court ruled that the buy-bust team's excuse of the existence of a commotion was not a justifiable reason for failing to conduct the inventory at the place of seizure. The Court there ruled that seven armed members of the buy-bust team could have easily contained any commotion, thus they should have been able to conduct the marking and inventory at the place of seizure.

Further, and more importantly, the records fail to show any reason for the prosecution's failure to comply with the presence of the three witnesses during the inventory and photographing of the seized drugs.

In light of the foregoing, it is no longer necessary to determine the second requirement of whether the prosecution had been able to prove that the evidentiary value of the seized items had been properly preserved. Nonetheless, and if only to highlight the grave errors of the buy-bust team, the Court will show that even the evidentiary value of the seized items had not been preserved.

In *People v. Alviz*,²⁵ the Court held that the integrity and evidentiary value of seized items are properly preserved for as long as the *chain of custody* of the same is duly established. *Chain of custody* is defined in Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002:

- b. "Chain of Custody" means the **duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.** Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.] (Emphasis supplied)

Given that narcotic substances are not readily identifiable, the Court in *Mallillin v. People*²⁶ ruled that a more exacting standard compared to other object evidence that are readily identifiable is required to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with. Thus:

²³ G.R. No. 226481, April 18, 2018, p. 9.

²⁴ G.R. No. 229047, April 16, 2018, pp. 9-10.

²⁵ 703 Phil. 58, 73 (2013).

²⁶ 576 Phil. 576 (2008).



A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases – by accident or otherwise – in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.²⁷

As the drug itself is the *corpus delicti* in drugs cases, it is of utmost importance that there be no doubt or uncertainty as to its identity and integrity.

Here, **there are serious gaps in the *chain of custody* of the seized drugs** which create reasonable doubt as to its identity and integrity.

First, the glaring inconsistencies in the testimonies of the buy-bust team members make it unclear as to whether the buy-bust team went directly to the police station after the seizure of the drugs or whether they still went to the barangay hall and then proceeded to the police station. *Second*, although there was testimony as to the turnover of the seized drugs from the buy-bust team to the laboratory, there was no testimony on the safekeeping of the seized items after the laboratory testing. *Last*, there was no testimony as to the retrieval of the seized drugs from the laboratory for presentation in court as evidence.

Thus, contrary to the findings of the RTC and CA, the prosecution actually failed to establish the unbroken *chain of custody*. The inconsistencies in the testimony of the buy-bust team and lack of information at specific stages of the seizure, custody, and examination of the seized drugs create doubt as to the identity and integrity thereof.

The prosecution cannot find cover in the presumption of regularity in the performance of the police officers' duty, and the RTC erred in applying this presumption as against compliance with Section 21 of RA 9165. In a prosecution under RA 9165, all the requirements of Section 21 thereof should be proven; there is no presumption that a buy-bust team has complied with the requirements of this section. The Court reiterates its reminder in *People v. Mamangon*,²⁸ where it held that:

In this light, prosecutors are strongly reminded that they have the **positive duty** to prove compliance with the procedure set forth in Section 21 of RA 9165, as amended. As such, **they must have**

²⁷ Id. at 588-589.

²⁸ G.R. No. 229102, January 29, 2018.



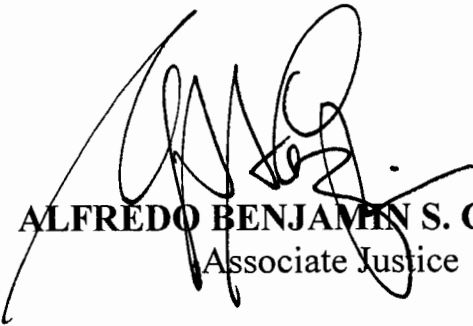
the initiative to not only acknowledge but also justify any perceived deviations from the said procedure during the proceedings before the trial court. Since compliance with this procedure is determinative of the integrity and evidentiary value of the *corpus delicti* and ultimately, the fate of the liberty of the accused, the fact that any issue regarding the same was not raised, or even threshed out in the court/s below, would not preclude the appellate court, including this Court, from fully examining the records of the case if only to ascertain whether the procedure had been completely complied with, and if not, whether justifiable reasons exist to excuse any deviation. **If no such reasons exist, then it is the appellate court's bounden duty to acquit the accused and, perforce, overturn a conviction.**²⁹ (Additional emphasis and underscoring supplied)

The Court supports the State's drive against illegal drugs. But such drive should strictly comply with the law and the Constitution. Although the amount of drugs involved in this case is not insubstantial, this alone does not warrant a relaxation of the rules. In fact, the procedure outlined in Section 21 is straightforward and easy to comply with; and the prosecution should account for and explain any deviations from the mandatory procedure outlined in Section 21. As shown above, the prosecution failed to comply with Section 21 or justifiably explain the deviations from it. Given this, the Constitutional right of accused-appellant to be presumed innocent stands.³⁰

WHEREFORE, premises considered, the Appeal is hereby **GRANTED**. The Decision of the Court of Appeals dated September 18, 2015 in CA-G.R. CR-HC No. 06285 is hereby **SET ASIDE**. Accused-appellant Norjana Sood y Amatondin is hereby **ACQUITTED** and ordered immediately **RELEASED** from detention unless she is confined for any other lawful cause.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections for immediate implementation, and is directed to report to the Court, within five (5) days from receipt of this Decision, the action he has taken.

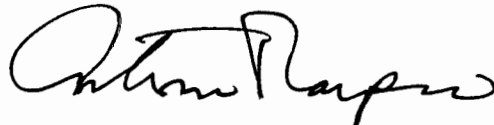
SO ORDERED.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

²⁹ Id. at 9.

³⁰ See *People v. Jugo*, G.R. No. 231792, January 29, 2018, pp. 9-10.

WE CONCUR:



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

Pls. see separate concurring opinion



DIOSDADO M. PERALTA
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

Reyes

ANDRES B. REYES, JR.
Associate Justice

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. 296, The Judiciary Act of 1948, as amended)

