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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 230065**
Plaintiff-Appellee, Present:

- versus -

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

MARCELINO CRISPO y
DESCALSO alias "GOGO" and
ENRICO HERRERA y
MONTES,
Accused-Appellants.

Promulgated:

14 MAR 2018

x-----*all cases before the do*-----x

DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal¹ filed by accused-appellants Marcelino Crispo y Descalso alias "Gogo" (Crispo) and Enrico Herrera y Montes (Herrera; collectively, accused-appellants) assailing the Decision² dated March 17, 2016 of the Court of Appeals (CA) in CA-G.R. CR HC No. 07117, which affirmed the Decision³ dated October 24, 2014 of the Regional Trial Court of Manila, Branch 2 (RTC) in Crim. Case Nos. 12-293828 and 12-293829 finding: (a) accused-appellants guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the "Comprehensive Dangerous Drugs Act of 2002"; and (b) Crispo guilty beyond reasonable doubt of violating Section 11, Article II of the same law.

* Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

¹ See Notice of Appeal dated April 14, 2016; *rollo*, pp. 13-14.

² Id. at 2-12. Penned by Associate Justice Manuel M. Barrios with Associate Justices Ramon M. Bato, Jr. and Maria Elisa Sempio Diy concurring.

³ *CA rollo*, pp. 40-46. Penned by Presiding Judge Sarah Alma M. Lim.

⁴ Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on June 7, 2002.

The Facts

This case stemmed from two (2) Informations⁵ filed before the RTC charging accused-appellants of the crime of Illegal Sale of Dangerous Drugs, and Crispo of the crime of Illegal Possession of Dangerous Drugs, the accusatory portions of which state:

Crim. Case No. 12-293828

That on or about November 19, 2012, in the City of Manila, Philippines, the said [accused-appellants], conspiring and confederating together and mutually helping each other, not being then authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there willfully, unlawfully, knowingly and jointly sell one (1) heat-sealed transparent plastic sachet containing ZERO POINT ZERO TWO THREE (0.023) gram of white crystalline substance containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁶

Crim. Case No. 12-293829

That on or about November 19, 2012, in the City of Manila, Philippines, [Crispo], not being then authorized by law to possess any dangerous drug, did then and there willfully, unlawfully, and knowingly possess or have under his control three (3) heat-sealed transparent plastic sachets containing white crystalline substance weighing zero point zero three seven (0.037) gram, zero point zero two five (0.025) gram and zero point zero one nine (0.019) gram or in the total weight of zero point zero eight one (0.081) gram of methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁷

The prosecution alleged that at around 1:30 in the afternoon of November 19, 2012,⁸ a confidential informant (CI) tipped the Manila Police District Station 4 (MPD) of the alleged illegal drug activities of a certain alias "Gogo" (later identified as Crispo) at Ma. Cristina Street, Sampaloc, Manila. Thus, after coordinating with the operatives of the Philippine Drug Enforcement Agency, the MPD organized a buy-bust operation at the said area, with Police Officer (PO) 2 Dennis Reyes (PO2 Reyes) as the poseur buyer. Upon arrival at the area at around 5:30 in the afternoon of even date, the CI and PO2 Reyes saw Crispo talking to his runner, Herrera, and decided to approach them. As they went nearer, Herrera approached the CI and PO2 Reyes, while Crispo remained about five (5) to six (6) meters away. PO2 Reyes then signified his intention of buying *shabu*, prompting Herrera to get

⁵ Records, pp. 2-3 and 4-5.

⁶ Id. at 2.

⁷ Id. at 4.

⁸ Erroneously dated as "May 1, 2003" and "November 19, 2014" in some parts of the records.

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the marked money from him, and thereafter, approach Crispo in order to remit the money and get a sachet containing white crystalline substance from the latter. When Herrera handed over the sachet to PO2 Reyes, the latter performed the pre-arranged signal, directly causing his backups to rush into the scene and apprehend accused-appellants. Upon frisking accused-appellants, the arresting officers recovered three (3) other plastic sachets containing white crystalline substance from Crispo. The accused-appellants and the seized items were then taken to the barangay office where the arresting officers, *inter alia*, conducted the inventory and photography in the presence of two (2) barangay kagawads, as indicated in the Receipt of Property/Evidence Seized.⁹ After examination¹⁰ at the Crime Laboratory, it was confirmed that the sachets seized from accused-appellants contain methamphetamine hydrochloride, or *shabu*.¹¹

Accused-appellants pleaded not guilty to the crimes charged¹² and offered their version of the events. According to Crispo, he was just on board a tricycle going to his niece's house when suddenly, a car with five (5) policemen in civilian clothes blocked the tricycle's path. One of the policemen then poked a gun at Crispo, and told him, "*Mga pulis kami, sumama ka sa presinto.*" Fearful for his life, Crispo complied. Upon arrival at the police station, the policemen demanded from him ₱30,000.00 for his release; otherwise, they will plant evidence against him. The policemen then proceeded to show him four (4) sachets of *shabu* which will be used against him. For his part, Herrera averred that he was riding a bicycle when he accidentally bumped a brown van. Three (3) men then alighted from the van, arrested him, and took him to the police station. Thereat, an affidavit was purportedly prepared for him and that he signed the same even without reading it out of confusion.¹³

The RTC Ruling

In a Decision¹⁴ dated October 24, 2014, the RTC found accused-appellants guilty beyond reasonable doubt of the crimes charged and, accordingly, sentenced them as follows: (a) for Illegal Sale of Dangerous Drugs, the RTC sentenced accused-appellants to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00; and (b) for Illegal Possession of Dangerous Drugs, the RTC sentenced Crispo to suffer the penalty of imprisonment for the indeterminate period of twelve (12) years and one (1) day, as minimum, to seventeen (17) years and four (4) months, as maximum, and to pay a fine in the amount of ₱300,000.00.¹⁵

⁹ Dated November 19, 2012. Records, p. 15.

¹⁰ See Chemistry Report No. D-850-12 dated November 19, 2012 signed by Forensic Chemical Officer, Police Chief Inspector Elisa G. Reyes; *id.* at 12.

¹¹ See *rollo*, pp. 4-6.

¹² *Id.* at 4.

¹³ See *id.* at 6-7.

¹⁴ CA *rollo*, pp. 40-46.

¹⁵ *Id.* at 46.

The RTC found that the prosecution was able to establish all the elements of the crimes charged as it was shown that accused-appellants sold to PO2 Reyes one (1) sachet of *shabu* and that after their arrest, three (3) more sachets of *shabu* were found in Crispo's possession. On the other hand, the RTC did not give merit to accused-appellants' imputation of ill-motive against their arresting officers after finding it unsubstantiated.¹⁶

Aggrieved, accused-appellants appealed¹⁷ to the CA.

The CA Ruling

In a Decision¹⁸ dated March 17, 2016, the CA affirmed the RTC ruling.¹⁹ It held that the prosecution had established beyond reasonable doubt all the elements of the crimes charged. Further, the CA ruled that the absence of representatives from the DOJ and the media during the conduct of the inventory is not fatal to the prosecution of accused-appellants, so long as the integrity and evidentiary value of the seized items are preserved.²⁰

Hence, this appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld accused-appellants' conviction for the crimes charged.

The Court's Ruling

I.

During the pendency of this appeal, the Court received a letter²¹ dated September 7, 2017 from the Bureau of Corrections, informing it that Herrera had already died on April 3, 2017. Attached thereto is a duplicate copy of Herrera's Certificate of Death²² issued by the Officer of the Civil Registrar General.

Under Paragraph 1, Article 89 of the Revised Penal Code, the consequences of Herrera's death are as follows:

¹⁶ Id. at 44-46.

¹⁷ See Notice of Appeal dated October 28, 2014; records, p. 95.

¹⁸ *Rollo*, pp. 2-12.

¹⁹ Id. at 11.

²⁰ See id. at 7-11.

²¹ Id. at 27.

²² Id. at 28.

Art. 89. *How criminal liability is totally extinguished.* — Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment;

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In *People v. Jao*,²³ the Court eloquently summed up the effects of the death of an accused pending appeal on his liabilities,²⁴ as follows:

From this lengthy disquisition, we summarize our ruling herein:

1. Death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon. As opined by Justice Regalado, in this regard, “the death of the accused prior to final judgment terminates his criminal liability and only the civil liability directly arising from and based solely on the offense committed, *i.e.*, civil liability *ex delicto* in *sensu strictiore*.”²⁵

Thus, upon Herrera’s death pending appeal of his conviction, the criminal action against him is extinguished inasmuch as there is no longer a defendant to stand as the accused. As such, the criminal case against him is hereby dismissed, and declared closed and terminated.²⁶

II.

With respect to Crispo, the Court finds his appeal meritorious.

It must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.²⁷ “The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.”²⁸

Here, Crispo was charged with the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under

²³ See G.R. No. 225634, June 7, 2017.

²⁴ See *id.*, citing *People v. Egagamao*, G.R. No. 218809, August 3, 2016, 799 SCRA 507, 513.

²⁵ See *id.*

²⁶ See *id.*

²⁷ See *People v. Dahil*, 750 Phil. 212, 225 (2015).

²⁸ *People v. Comboy*, G.R. No. 218399, March 2, 2016, 785 SCRA 512, 521.

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Sections 5 and 11, Article II of RA 9165. Notably, 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.²⁹ Meanwhile, in instances wherein an accused is charged with Illegal Possession of Dangerous Drugs, the prosecution must establish the following elements to warrant his conviction: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.³⁰

Case law states that in both instances, it is essential that the identity of the prohibited drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. Thus, in order to obviate any unnecessary doubt on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.³¹

Section 21, Article II of RA 9165 outlines the procedure which the police officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.³² Under the said section, prior to its amendment by RA 10640,³³ the apprehending team shall, among others, **immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his 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 of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.³⁴ In the case of *People v. Mendoza*,³⁵ the Court stressed that “**[w]ithout the insulating presence of the representative from the media or the [DOJ], or any elected public official during the seizure and marking of the [seized 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**

²⁹ *People v. Sumili*, 753 Phil. 342, 348 (2015).

³⁰ *People v. Bio*, 753 Phil. 730, 736 (2015).

³¹ See *People v. Viterbo*, 739 Phil. 593, 601 (2014).

³² See *People v. Sumili*, supra note 29, at 349-350.

³³ Entitled “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. The crime subject of this case was allegedly committed before the enactment of RA 10640, or on November 19, 2012.

³⁴ See Section 21 (1) and (2), Article II of RA 9165.

³⁵ 736 Phil. 749 (2014).

[said drugs] that were evidence herein of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused. Indeed, the x x x presence of such witnesses would have preserved an unbroken chain of custody.”³⁶

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21, Article II of RA 9165 may not always be possible.³⁷ In fact, the Implementing Rules and Regulations (IRR) of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640³⁸ – provide that the said inventory and photography may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that **non-compliance with the requirements of Section 21, Article II of RA 9165 – under justifiable grounds – will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team.**³⁹ In other words, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21, Article II of RA 9165 and its IRR does not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; **and** (b) the integrity and evidentiary value of the seized items are properly preserved.⁴⁰ In *People v.*

³⁶ Id. at 764; emphases and underscoring supplied.

³⁷ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

³⁸ Section 1 of RA 10640 states:

Section 1. Section 21 of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” is hereby amended to read as follows:

“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 persons 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.

x x x x”

³⁹ See Section 21 (a), Article II of the IRR of RA 9165. See also *People v. Ceralde*, G.R. No. 228894, August 7, 2017.

⁴⁰ See *People v. Goco*, G.R. No. 219584, October 17, 2016, 806 SCRA 240, 252.

Almorfe,⁴¹ **the Court explained that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had nonetheless been preserved.**⁴² Also, in *People v. De Guzman*,⁴³ it was emphasized that **the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.**⁴⁴

After a judicious study of the case, the Court finds that the arresting officers committed unjustified deviations from the prescribed chain of custody rule, thereby putting into question the integrity and evidentiary value of the dangerous drugs allegedly seized from Crispo.

An examination of the records reveals that while the inventory and photography of the seized items were made in the presence of two (2) elected public officials, *i.e.*, Barangay Kagawads Ramon Amtolim and Helen Tolentino, as evidenced by their signatures on the Receipt of Property/Evidence Seized,⁴⁵ the same were not done in the presence of representatives from either the DOJ and the media. This fact was confirmed by PO3 Manolito Rodriguez (PO3 Rodriguez), a member of the buy-bust team that apprehended Crispo, in his testimony in direct and cross-examinations, to wit:

[Asst. Pros. Alexander T. Yap]: What happened at the barangay? What barangay by the way?

[PO3 Rodriguez]: I forgot the number of the barangay, sir.

Q: Who was, was there an official of the barangay with you?

A: I remember two Kagawad[s], sir.

Q: Tell the Court what happened at the barangay?

A: They signed as witnesses in the inventory receipt, sir.

Q: Who signed the inventory?

A: [The] Barangay Kagawad[s], sir.

x x x x

[Atty. Rosemarie G. Gonzales (Atty. Gonzales)]: Mr. Witness, according to you, you already proceeded to the barangay?

[PO3 Rodriguez]: Yes, ma'am.

x x x x

Q: Mr. Witness, were you able to see when the markings of the evidences (sic) were done?

⁴¹ 631 Phil. 51 (2010).

⁴² Id. at 60; citation omitted.

⁴³ 630 Phil. 637 (2010).

⁴⁴ Id. at 649.

⁴⁵ See records, p. 15.

A: Yes, ma'am.

Q: Where were you at that time?

A: At the barangay hall, ma'am.

Q: How about the accused at that time, where were they?

A: They were with us also, ma'am.

Q: Were they assisted [by] any counsel at that time?

A: None, ma'am.

Q: Were there any members of the DOJ?

A: None, ma'am.

Q: Were there any members of the media?

A: None, ma'am.

Q: According to you the inventory of the evidences (sic) were witnessed by the Kagawads?

A: Yes, ma'am.

Q: An these kagawads? Who called the kagawads?

A: We, ma'am.

Q: They were already at the area when they arrived?

A: Yes, ma'am.⁴⁶ (Emphases and underscoring supplied)

The law requires the presence of an elected public official, as well as representatives from the DOJ and the media to ensure that the chain of custody rule is observed and thus, remove any suspicion of tampering, switching, planting, or contamination of evidence which could considerably affect a case. However, minor deviations may be excused in situations where a justifiable reason for non-compliance is explained. In this case, despite the non-observance of the witness requirement, no plausible explanation was given by the prosecution. In fact, the poseur-buyer, PO2 Reyes, only feigned ignorance as to the reason why no representatives of the DOJ and the media were present during the inventory of the seized items:

[Atty. Gonzales]: By the way, Mr. Witness, prior to the operation considering that you would be conducting a buy-bust operation, was there any coordination with the DOJ?

[PO2 Reyes]: I do not know if [SPO3 Agapito Yadao, the buy-bust team leader,] did that, ma'am.

Q: How about with any media representative?

A: I do not know, ma'am.

X X X X

Q: Mr. Witness, when these evidences (sic) were likewise being marked was there any presence of the DOJ now?

⁴⁶ TSN, May 7, 2013, pp. 9 and 18-19.

A: None, ma'am.

Q: How about the presence of the media now?

A: None, ma'am.

x x x x

Q: Why was there none?

A: When we arrested them we immediately proceeded to the Barangay[.]

Q: That's the only your (sic) explanation?

A: Yes, ma'am.

Q: Despite the fact that it is a buy-bust operation which was prepared by your office?

A: Yes, ma'am.

Q: With all documents prepared and Pre-operation Report prepared?

A: Yes, ma'am.

Q: You just merely did not consider getting all the required persons to comply with Sec. 21?

A: I do not know with Yadao, ma'am.⁴⁷ (Emphases and underscoring supplied)

At this point, it is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible.⁴⁸ However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21, Article II of RA 9165 must be adduced.⁴⁹ In *People v. Umipang*,⁵⁰ the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for “[a] sheer statement that representatives were unavailable – without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances – is to be regarded as a flimsy excuse.”⁵¹ Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance.⁵² These considerations arise from the fact that police officers are ordinarily given sufficient time – beginning from the moment they have received the information about the activities of the accused until the time of his arrest – to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21, Article II of RA 9165. **As such, police officers are compelled not only to state reasons for their non-compliance, but must**

⁴⁷ TSN, June 25, 2013, pp. 26 and 29.

⁴⁸ See *People v. Umipang*, 686 Phil 1024, 1052 (2012).

⁴⁹ See id. at 1052-1053.

⁵⁰ Id.

⁵¹ Id. at 1053.

⁵² See id.

in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.⁵³

Thus, for failure of the prosecution to provide justifiable grounds or show that special circumstances exist which would excuse their transgression, the Court is constrained to conclude that the integrity and evidentiary value of the items purportedly seized from Crispo have been compromised. It is settled that in a prosecution for the sale and possession of dangerous drugs under RA 9165, the State carries the heavy burden of proving not only the elements of the offense, but also to prove the integrity of the *corpus delicti*, failing in which, renders the case for the State insufficient to prove the guilt of the accused beyond reasonable doubt.⁵⁴

Verily, the procedural lapses committed by the arresting officers, which were unfortunately left unjustified, militate against a finding of guilt beyond reasonable doubt against Crispo, as the integrity and evidentiary value of the *corpus delicti* had been compromised.⁵⁵ It is well-settled that the procedure in Section 21, Article II of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.⁵⁶ As such, since the prosecution failed to provide justifiable grounds for non-compliance with the aforesaid provision, Crispo's acquittal is performe in order.

As a final note, the Court finds it fitting to echo its recurring pronouncement in recent jurisprudence on the subject matter:

The Court strongly supports the campaign of the government against drug addiction and commends the efforts of our law enforcement officers against those who would inflict this malediction upon our people, especially the susceptible youth. But as demanding as this campaign may be, it cannot be more so than the compulsions of the Bill of Rights for the protection of liberty of every individual in the realm, including the basest of criminals. The Constitution covers with the mantle of its protection the innocent and the guilty alike against any manner of high-handedness from the authorities, however praiseworthy their intentions.

Those who are supposed to enforce the law are not justified in disregarding the right of the individual in the name of order. Order is too high a price for the loss of liberty. x x x.⁵⁷

⁵³ See *People v. Manansala*, G.R. No. 229092, February 21, 2018.

⁵⁴ See *People v. Umipang*, supra note 48, at 1039-1040; citation omitted.

⁵⁵ See *People v. Sumili*, supra note 29, at 352.

⁵⁶ See *People v. Macapundag*, G.R. No. 225965, March 13, 2017, citing *People v. Umipang*, supra note 48, at 1038.

⁵⁷ *People v. Go*, 457 Phil. 885, 925 (2003), citing *People v. Aminnudin*, 246 Phil. 424, 434-435 (1998).


In this light, prosecutors are strongly reminded that they have the **positive duty** to prove compliance with the procedure set forth in Section 21, Article II of RA 9165, as amended. As such, **they must have 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 the 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.⁵⁸

WHEREFORE, the Court hereby rules as follows:


(a) Crim. Case No. 12-293828 is hereby **DISMISSED** and declared **CLOSED** and **TERMINATED** insofar as accused-appellant Enrico Herrera y Montes is concerned due to his supervening death pending appeal; and

(b) The appeal of accused-appellant Marcelino Crispo y Descalso is **GRANTED**. The Decision dated March 17, 2016 of the Court of Appeals in CA-G.R. CR HC No. 07117 is **REVERSED** and **SET ASIDE**. Accordingly, he is **ACQUITTED** of the crimes charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

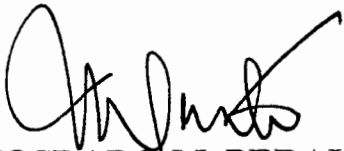
SO ORDERED.


ESTELA M. BERLAS-BERNABE
Associate Justice


WE CONCUR:


ANTONIO T. CARPIO
Acting Chief Justice
Chairperson

⁵⁸ See *People v. Miranda*, G.R. No. 229671, January 31, 2018.



DIOSDADO M. PERALTA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



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
Acting Chief Justice