



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 217661

- versus -

Present:
CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, JJ.

FERDINAND BUNIAG y
MERCADERA,
Accused-Appellant.

Promulgated:

26 JUN 2019

x-----*[Signature]*-----x

DECISION

CAGUIOA, J.:

This is an Appeal¹ under Section 13(c), Rule 124 of the Rules of Court from the Decision² dated January 30, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01246, which affirmed the Judgment³ dated December 23, 2013 rendered by the Regional Trial Court, Branch 40, Misamis Oriental, 10th Judicial Region (RTC) in Criminal Case No. 2008-498, finding accused-appellant Ferdinand Buniag y Mercadera (Buniag) 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, as amended.

The Facts

The Information⁵ filed against Buniag for violation of Section 5, Article II of RA 9165 pertinently reads:

¹ See Notice of Appeal dated February 17, 2015, *rollo*, pp. 15-16.
² *Rollo*, pp. 3-14. Penned by Associate Justice Edgardo T. Lloren with Associate Justices Edward B. Contreras and Rafael Antonio M. Santos, concurring.
³ CA *rollo*, pp. 34-41. Penned by Presiding Judge Ma. Corazon B. Gaitte-Llandal.
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" (2002).
⁵ Records, p. 1.

That on or about 7:30 P.M. of August 9, 2008, at Olape St., Zone 2, Bayabas, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drugs, did then and there wilfully, unlawfully, criminally[,] and knowingly sell and/or offer for sale, and give away[,] and deliver to a poseur[-]buyer [o]ne (1) LG black and red travelling bag with marking "NVP" containing two (2) bundles of dried alleged marijuana fruiting tops with stalks both wrapped in a blue print paper with marking NVP-1 and NVP-2 respectively and one (1) bundle of dried marijuana fruiting tops with stalks wrapped in a GRAPHIC poster paper marking NVP-3 with the following corresponding net weights; A-1 (NVP-1) 154.7 grams, A-2 (NVP-2) 118.8 grams and A-3 [(NVP-3) 36.5 grams respectively, accused knowing the same to be a dangerous drug.

Contrary to Section 5, Paragraph 1, in relation to Section 26, Article II of Republic Act No. 9165.⁶

Upon arraignment, Buniag pleaded not guilty to the charge.⁷

Version of the Prosecution

The version of the prosecution, as summarized by the CA, is as follows:

On August 9, 2008 at around 4 o'clock in the afternoon, PDEA Agent IO1 Rubylyn S. Alfaro (IO1 Alfaro), together with her confidential informant, met with the accused-appellant Buniag outside the vicinity of Bayabas High School, Cagayan de Oro City. It was agreed that IO1 Alfaro will purchase Php 5,000.00 worth of marijuana from Buniag and that the delivery will be made at around 7:00 to 7:30 in the evening of the same day along the street of Olape, Zone 2, Bayabas, Cagayan de Oro City.

IO1 Alfaro and the CI then went back to their office and relayed the aforesaid information to her fellow agents. At the office, a briefing was conducted wherein IO1 Alfaro was designated as the poseur[-]buyer while IO2 Neil Vincent Pimentel (IO2 Pimentel) was assigned as the back[-]up and arresting officer. After the meeting, the buy[-]bust team composing of IO2 Pimentel, IO1 Alfaro, PO2 Benjamin Reycites, SPO1 Amacanin, IO1 Pica, and the CI, went to the designated area on board their unmarked service vehicle.

The buy[-]bust team arrived at the target area at around 7:10 in the evening. IO1 Alfaro and the CI were dropped off along Olape Street while the rest of the team were inside the vehicle, which was parked from a distance of 5 to 7 meters away from IO1 Alfaro. The rest of the team were cautiously observing the area while IO1 Alfaro and the CI were waiting for Buniag.

⁶ Id.

⁷ *Rollo*, p. 4.

Minutes later, Buniag came, carrying with him a black traveling bag. Buniag approached IO1 Alfaro and demanded for the payment of the marijuana but the latter insisted that she should see the narcotics first. Buniag acceded to the request and opened the black traveling bag. IO1 Alfaro and the CI inspected the bag and saw three (3) bundles of marijuana stalks and leaves inside. Wasting no time, IO1 Alfaro made the pre-arranged signal, by executing a "missed call" to IO2 Pimentel, and the rest of the team rushed to their location. IO2 Pimentel arrested the accused-appellant after apprising the latter of his constitutional rights and the nature of the crime he had just violated. IO2 Pimentel then got hold of the black traveling bag, together with three (3) bundles of marijuana inside. The team then brought Buniag to their station with IO2 Pimentel in possession of the traveling bag and the illegal narcotics in going thereto.

At the station, IO2 Pimentel marked the black traveling bag with his initials "NVP" while the three bundles of marijuana were successively marked with "NVP 1" to "NVP 3". IO2 Pimentel then prepared the Inventory of Seized Items while their Regional Director made the Letter Request for Laboratory Examination. Pictures were also taken of the accused-appellant and the seized items. IO2 Pimentel and IO1 Alfaro then brought Buniag and the seized items to the Regional Crime Laboratory Office which received the seized items at 9:10 in the evening of the same day. Upon a qualitative examination conducted by PSI Erma Condino Salvacion, the three bundles were found positive for marijuana, a dangerous drug. The result of the said examination was embodied in Chemistry Report No. D-154-2008.⁸

Version of the Defense

On the other hand, the version of the defense, as summarized by the CA, is as follows:

On August 8, 2008, Buniag, a resident of Wao, Lanao del Sur, went to Cagayan de Oro City pursuant to the request of his brother, who was in Manila, to check the latter's house in Bayabas, Cagayan de Oro City. On the evening of the next day, he went out of his brother's house to buy some food. Suddenly, a vehicle stopped in front of him and two persons, whom he later recognized as IO2 Pimentel and IO1 Alfaro, alighted therefrom and ran towards him. The two persons then handcuffed him and told him that he is a suspect because there are plenty of marijuana in Wao, to which he replied that such is not true.

After his arrest, Buniag was made to board a vehicle. While inside the vehicle, IO2 Pimentel asked for Php 20,000.00 so that he will be released. He replied that he has no money because his family is very poor. IO2 Pimentel continued to ask if he has a title to a lot or a house, to which he replied that he has none. At the PDEA Office, he was made to sit down on a chair and was asked to point to a black bag. He was then photographed while pointing to the said bag. He was then brought to the crime laboratory wherein he was given a plastic container and was told to urinate [i]n it. He said that during the course of his arrest and at the laboratory, he was made to sign documents without knowing the contents

⁸ Id. at 5-6.

therein. Buniag vehemently denied that he owned the black traveling bag, as well as the three bundles of marijuana inside it. He claimed that he did not even know what marijuana is.⁹

Ruling of the RTC

In the assailed Judgment dated December 23, 2013, the RTC ruled that the prosecution sufficiently discharged the burden of proving the guilt of the accused beyond reasonable doubt for the crime of attempt to sell and/or delivery of a dangerous drug.¹⁰ There was a mere attempt to sell, as the consideration for the marijuana had not yet been given when the arrest was made.¹¹ Buniag is likewise liable for delivery of a dangerous drug as he had in fact given and delivered to the poseur-buyer the bag containing marijuana fruiting tops and stalks.¹² Lastly, it ruled that the chain of custody of the seized drugs was adequately established in the instant case.¹³

The dispositive portion of the Judgment reads:

WHEREFORE, all the foregoing premises considered, the court hereby finds accused **Ferdinand Buniag y Mercadera GUILTY** beyond reasonable doubt of having committed the offense charged in the information (violation of Section 5, Article II of R.A. 9165). He is hereby sentenced to suffer the penalty of *life imprisonment* and to pay a fine in the amount of FIVE HUNDRED THOUSAND PESOS (P500,000.00), without subsidiary imprisonment in case of insolvency. The period of his preventive detention shall be credited in his favor. The bundles of marijuana are hereby ordered forfeited in favour of the government for proper disposal in accordance with the rules.

SO ORDERED.¹⁴

Aggrieved, Buniag appealed to the CA.

Ruling of the CA

In the assailed Decision dated January 30, 2015, the CA affirmed Buniag's conviction. The dispositive portion of the Decision reads:

WHEREFORE, the appeal is DENIED. The Judgment dated June 14, 2013 of the Regional Trial Court of Misamis Oriental, 10th Judicial Region, Branch 40 in Criminal Case No. 2008-498 is hereby MODIFIED. Accused-appellant Ferdinand Buniag y Mercadera is found GUILTY beyond reasonable doubt for violating Section 26(b), Article II of R.A. No.

⁹ Id. at 6.

¹⁰ CA *rollo*, p. 39.

¹¹ Id.

¹² Id.

¹³ Id. at 40.

¹⁴ Id. at 40-41.



9165 and is sentenced to suffer a penalty of life imprisonment and to pay a fine of P500,000.00

SO ORDERED.¹⁵

The CA ruled that a perusal of the Information filed against Buniag would show that he was charged with violation of Section 5, paragraph 1, in relation to Section 26,¹⁶ Article II of RA 9165.¹⁷ Here, Buniag clearly intended to sell marijuana and commenced overt acts in relation to it, however, the sale was aborted when IO1 Alfaro, upon confirming that Buniag had with him the marijuana, made a “miss-call” to IO2 Pimentel, their pre-arranged signal, and the rest of the team rushed to the area and placed Buniag under arrest.¹⁸ From the testimonies of the witnesses, the prosecution was able to establish that there was an attempt to sell marijuana.¹⁹ Thus, the RTC should have convicted Buniag for violation of Section 26(b), Article II of RA 9165.²⁰

It further ruled that the failure to conduct an inventory and to photograph the confiscated items in the manner prescribed under Section 21 of RA 9165 is not fatal to the prosecution’s cause.²¹ The marking of the seized items at the police station and in the presence of the accused is sufficient to show compliance with the rules on chain of custody.²² It further ruled that when the police officers involved in the buy-bust operation have no motive to falsely testify against the accused, the courts shall uphold the presumption that they have performed their duties regularly.²³

Hence, the instant appeal.

Issue

Whether the CA erred in finding the accused guilty beyond reasonable doubt of violating Section 26(b), Article II of RA 9165.

The Court’s Ruling

The petition is meritorious. Buniag is accordingly acquitted.

¹⁵ *Rollo*, p. 13.

¹⁶ SEC. 26. *Attempt or Conspiracy.* – Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

x x x x

(b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical[.]

¹⁷ *Rollo*, p. 9.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 10.

²¹ *Id.* at 11.

²² *Id.* at 12.

²³ *Id.* at 13.

The CA is correct in ruling that Buniag should have been convicted of the offense of attempted illegal sale of dangerous drugs. Under the rule on variance, while Buniag cannot be convicted of the offense of illegal sale of dangerous drugs because the sale was never consummated, he may be convicted for the attempt to sell as it is necessarily included in the illegal sale of dangerous drugs.²⁴

A crime is attempted when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution, which should produce the felony, by reason of some cause or accident other than his own spontaneous desistance.²⁵

In the present case, Buniag attempted to sell shabu and commenced by overt acts the commission of the intended crime however, the sale was aborted when IO1 Alfaro, upon confirming that Buniag had with him the marijuana, made a “miss-call” to IO2 Pimentel, the pre-arranged signal, and the rest of the team rushed to the area and placed Buniag under arrest. Thus, the CA correctly ruled that the accused may only be held liable for attempted illegal sale of dangerous drugs.

Nevertheless, Buniag may still not be convicted of attempted illegal sale of dangerous drugs. At this juncture, it is important for the Court to point out that for a successful prosecution of the offense of illegal sale of dangerous drugs under RA 9165, which necessarily includes attempted sale of illegal drugs, the following elements must be proven: (1) the transaction or sale took place; (2) **the *corpus delicti* or the illicit drug was presented as evidence**; and (3) the buyer and the seller were identified.²⁶

In cases involving dangerous drugs, the confiscated drug constitutes the very *corpus delicti* of the offense²⁷ and the fact of its existence is vital to sustain a judgment of conviction.²⁸ It is of prime importance that the identity of the dangerous drug be established beyond reasonable doubt; and that it must be proven with exactitude that the substance bought during the buy-bust operation is exactly the same substance offered in evidence before the court.²⁹

In this case, even if the Court were to believe as true the version of the prosecution, due to the failure of the police officers to strictly comply with

²⁴ *People v. Tumulak*, 791 Phil. 148, 158 (2016).

²⁵ REVISED PENAL CODE, Art. 6.

²⁶ *People v. Bartolini*, 791 Phil. 626, 633-634 (2016).

²⁷ *People v. Sagana*, G.R. No. 208471, August 2, 2017, 834 SCRA 225, 240.

²⁸ *Derilo v. People*, 784 Phil. 679, 686 (2016).

²⁹ *People v. Bartolini*, supra note 26, at 634, citing *People v. Gatlabayan*, 669 Phil. 240, 252 (2011).

the requirements laid down under Section 21³⁰ of RA 9165, the second element to convict Buniag of the crime charged is still absent since the prosecution failed to establish the *corpus delicti* beyond reasonable doubt.

There was blatant disregard of the chain of custody rule as shown below:

First, the police officers did not conduct the marking, photography, and inventory of the seized items at the place of arrest. Without having any valid excuse for the deferment of the conduct of the required procedure under Section 21 of RA 9165, they brought the seized items to the police station. As testified by IO2 Pimentel:

Q- You identified earlier the picture, am I correct also to say that the picture was only taken when you were already there in your office?

A- Yes[,] Sir.

Q- As well as the marking of the items were (*sic*) only made in your office?

A- Yes[,] Sir.³¹

Second, although there was a media representative who signed the inventory report at the police office, such is not enough because the law requires that the mandatory witnesses should already be present during the actual inventory and not merely after the fact. Moreover, there was no representative from the Department of Justice (DOJ) or any elected official at the time of arrest of the accused and seizure of the illegal drugs, and inventory and photography of the seized items at the police station.³² As testified by IO2 Pimentel:

Q- There is Amor appeared in the inventory whose name is this? (*sic*)

A- The representative from the media Gold Star Daily, Your Honor.

Q- What Gold Star Daily?

A- He is a media personnel, Your Honor, from the Gold Star Daily.

Q- Where was this inventory made and when was this made?

³⁰ The said section reads 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 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[.]

³¹ TSN, July 23, 2010, p. 20.

³² *Rollo*, p. 6.

- A- At our office on August 9, 2008 prior [to] 9:00 o'clock in the evening.
- Q- Before going to the Crime Lab?
- A- Yes, Your Honor.
- Q- When did Amor appear in your office to sign?
- A- Between that hours, Your Honor, after we arrived at the office more or less, Your Honor at around 8:00 o'clock, Your Honor. (*sic*)
- Q- **She is the only witness during the making of the inventory?**
- A- **Yes, Your Honor.**³³ (Emphasis supplied)

In this connection, the Court has repeatedly held that Section 21, Article II of RA 9165, the applicable law at the time of the commission of the alleged crime, **strictly requires** that (1) the seized items be inventoried and photographed immediately after seizure or confiscation; and (2) the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the DOJ.³⁴

Verily, the three required witnesses **should already be physically present at the time of the conduct of the inventory of the seized items which, again, must be immediately done at the place of seizure and confiscation** — 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.³⁵

In addition, while the Court has clarified that under varied field conditions, strict compliance with the requirements of Section 21 of RA 9165 may not always be possible.³⁶ The failure of the apprehending team to strictly comply with the procedure laid out in Section 21 does not *ipso facto* render the seizure and custody over the items void; and this has **always** been with the caveat that the prosecution still needs to satisfactorily prove that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.³⁷

However, in this case, it is obvious that the police officers did not have a valid excuse for their deviation from Section 21 of RA 9165. Their

³³ TSN, July 23, 2010, pp. 22-23.

³⁴ See RA 9165, Art. II, Sec. 21 (1) and (2); *Ramos v. People*, G.R. No. 233572, July 30, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64716>>; *People v. Ilagan*, G.R. No. 227021, December 5, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64800>>; *People v. Mendoza*, G.R. No. 225061, October 10, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64646>>.

³⁵ *People v. Angeles*, G.R. No. 237355, November 21, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64869>>.

³⁶ *People v. Sanchez*, 590 Phil. 214, 234 (2008)

³⁷ *People v. Ceralde*, G.R. No. 228894, August 7, 2017, 834 SCRA 613, 625.



mere allegation that they feared that the people started coming out of the house is nothing but a frail excuse since there were seven (7) of them and they were even armed:

[IOI Alfarol:]

Q- That area is isolated?

A- At that time Your H[o]nor there are so many people.

Q- They gathered and you were afraid if they have companions?

A- Yes[,] Your Honor.

x x x x

Q- How many of you were in that entrapment operation?

A- More or less seven sir.

Q- If there were seven of you and you were armed why are you afraid of the people in Olape?

A- Because it is already 9:00 p.m., there were many people watching us.

Q- You were not sure [i]f these people whether friendly or enemy?
(sic)

A- Yes[,] sir.³⁸

Thus, it is obvious that the buy-bust team manifestly disregarded the procedure laid down under Section 21 of RA 9165. Neither did they have any valid excuse to do so. The integrity and evidentiary value of the *corpus delicti* have thus been compromised and Buniag must accordingly be acquitted.

*The buy-bust operation
appears to have been a sham.*

A buy-bust operation is a form of entrapment, in which the violator is caught in *flagrante delicto* and the police officers conducting the operation are not only authorized, but duty-bound to apprehend the violator and to search him for anything that may have been part of or used in the commission of the crime.³⁹ However, where there was really no buy-bust operation conducted, it cannot be denied that the elements for attempted illegal sale of prohibited drugs, specifically the *corpus delicti* element, cannot be duly proved despite the presumption of regularity in the performance of official duty and the seeming straightforward testimony in court by the arresting police officers. Indubitably, the indictment for attempted illegal sale of prohibited drugs will not have a leg to stand on.⁴⁰

³⁸ TSN, January 22, 2010, pp. 5-7.

³⁹ *People v. Mateo*, 582 Phil. 390, 410 (2008), citing *People v. Ong*, 476 Phil. 553, 571 (2004) and *People v. Juatan*, 329 Phil. 331, 337-338 (1996).

⁴⁰ *People v. Dela Cruz*, 666 Phil. 593, 605 (2011).

In the case at bar, the following instances indicate that there was, contrary to the claim of the prosecution, really no buy-bust operation that was conducted by the police officers:

First, the police officers miserably failed to comply with the requirements under Section 21 of RA 9165. They did not conduct any kind of marking, photography, or inventory of the seized items at the place of arrest. This puts in doubt their version of the events. Indeed, the total absence of any witness belies the claim that there was even a buy-bust operation.

Second, the police officers testified that even before the buy-bust operation, they purportedly already had a preliminary meeting with Buniag to discuss the drugs they were going to buy.⁴¹ If this were true, then they could easily have done the proper preparation. It would have been easy to already contact the required witnesses to be present at the planned time of the buy-bust. That they still did not bring with them the required witnesses when they had all the time and opportunity to do so indicates, to a reasonable mind, that there was, in fact, no buy bust operation that had been planned. Indeed, the whole story of the police officers is doubtful, and the version of the defense that he was merely framed-up becomes more believable.

Thus, taking into consideration the defense of denial and frame-up by Buniag, in light of the testimonies of the police officers, the Court cannot conclude that there was a buy-bust operation conducted by the arresting police officers as they attested to and testified on.

The presumption of innocence of the accused is superior over the presumption of regularity in performance of official duties.

The CA held that the police officers enjoy the presumption of regularity in the performance of their official duties.⁴² However, the Court finds that this presumption does not hold water in this case.

The Court has repeatedly held that the fact that a buy-bust is a planned operation, it strains credulity why the buy-bust team could not have ensured the presence of the required witnesses pursuant to Section 21 or at the very least marked, photographed and inventoried the seized items according to the procedures in their own operations manual.⁴³ As applied in this case, the presumption of regularity cannot stand because of the buy-bust team's blatant disregard of the established procedures under Section 21 of RA 9165.

⁴¹ TSN, May 7, 2009, p. 3.

⁴² *Rollo*, p. 13.

⁴³ *People v. Zheng Bai Hui*, 393 Phil. 68, 133 (2000).

In this connection, the presumption of regularity in the performance of official duty cannot overcome the stronger presumption of innocence in favor of the accused.⁴⁴ The right of the accused to be presumed innocent until proven guilty is a constitutionally protected right.⁴⁵ Thus, it would be a patent violation of the Constitution to uphold the importance of the presumption of regularity in the performance of official duty over the presumption of innocence, especially in this case where there are more than enough reasons to disregard the former.

All told, the prosecution failed to prove the *corpus delicti* of the crime charged due to the multiple unexplained breaches of procedure committed by the buy-bust team in the seizure, custody, and handling of the seized drug. In other words, the prosecution was not able to overcome the presumption of innocence of Buniag.

As a reminder, the Court exhorts the prosecutors to diligently discharge their onus to prove compliance with the provisions of Section 21 of RA 9165, as amended, and its Implementing Rules and Regulations, which is fundamental in preserving the integrity and evidentiary value of the *corpus delicti*. **To the mind of the Court, the procedure outlined in Section 21 is straightforward and easy to comply with.** In the presentation of evidence to prove compliance therewith, the prosecutors are enjoined to recognize any deviation from the prescribed procedure and provide the explanation therefor as dictated by available evidence. Compliance with Section 21 being integral to every conviction, the appellate court, this Court included, is at liberty to review the records of the case to satisfy itself that the required proof has been adduced by the prosecution whether the accused has raised, before the trial or appellate court, any issue of non-compliance. If deviations are observed and no justifiable reasons are provided, the conviction must be overturned, and the innocence of the accused affirmed.⁴⁶

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated January 30, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 01246, is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **FERDINAND BUNIAG y MERCADERA** is **ACQUITTED** of the crime of violating Section 26(b), Article II of RA 9165 on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Decision be furnished the Penal Superintendent of the Davao Prison and Penal Farm, for immediate implementation. The said Penal Superintendent is **ORDERED to REPORT** to this Court within five (5) days from receipt of this Decision the action he has taken.

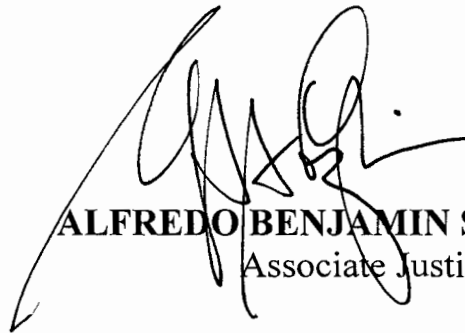
⁴⁴ *People v. Mendoza*, 736 Phil. 749, 769-770 (2014).

⁴⁵ CONSTITUTION, Art. III, Sec. 14, par. (2): "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved x x x."

⁴⁶ See *People v. Jugo*, G.R. No. 231792, January 29, 2018.

Further, the National Police Commission is hereby **DIRECTED** to **CONDUCT AN INVESTIGATION** on the police officers involved in the buy-bust operation conducted in this case.

SO ORDERED.

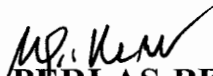


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

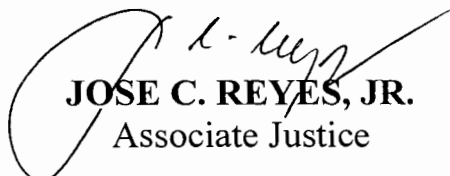
WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

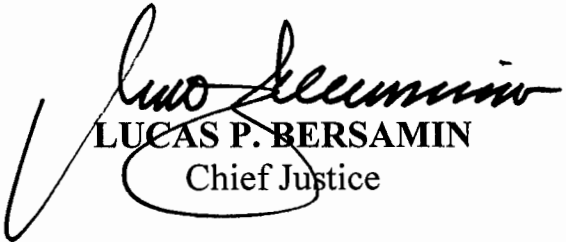
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

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


LUCAS P. BERSAMIN
Chief Justice

