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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MELANIE GREFALDO y DE LEON,

Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES,

Respondent.

G.R. No. 246362

Present:

PERLAS-BERNABE, J.,

Chairperson,

A. REYES, JR.,

HERNANDO,

INTING,* and

ZALAMEDA,** JJ.

Promulgated:

11 NOV 2019

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated June 28, 2018 and the Resolution³ dated March 28, 2019 of the Court of Appeals (CA) in CA-G.R. CR. No. 39394, which affirmed the Decision⁴ dated December 6, 2016 of the Regional Trial Court of Antipolo City, Branch 97 (RTC) in Criminal Case No. 12-44012 finding petitioner Melanie Grefaldo y De Leon (petitioner) guilty beyond reasonable doubt of violating Section 11 of Republic Act No. (RA) 9165,⁵ otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

* On official leave.

** Designated Additional Member per Special Order No. 2727 dated October 25, 2019.

¹ Rollo, pp. 11-29.

² Id. at 31-47. Penned by Associate Justice Zenaida T. Galapate-Laguilles with Associate Justices Remedios A. Salazar-Fernando and Jane Aurora C. Lantion, concurring.

³ Id. at 49-50.

⁴ Id. at 69-80. Penned by Presiding Judge Marie Claire Victoria Mabutas-Sordan.

⁵ 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 an Information⁶ filed before the RTC accusing petitioner of the crime of Illegal Possession of Dangerous Drugs, defined and penalized under Section 11, Article II of RA 9165.

The prosecution alleged that at around 7:30 in the morning of March 22, 2012, Police Officer (PO) 1 Denver Riñon⁷ (PO1 Riñon) and PO2 Rhene Bogay (PO2 Bogay), members of the Antipolo City Police, went to La Colina Subdivision in Barangay Mambugan, Antipolo City to investigate reports of purported illegal gambling activities in the area.⁸ Thereat, they encountered petitioner, who was acting suspiciously as if she was accepting bets for *jueteng*. Upon approaching her, they saw two (2) plastic sachets containing white crystalline substance fall from her right pocket. Suspicious that the sachets contained illicit drugs, they introduced themselves as police officers to petitioner and arrested her.⁹ They then seized and marked the sachets and brought petitioner to the police station in San Jose, Antipolo City, where they photographed¹⁰ and inventoried¹¹ the seized items and subsequently forwarded the same to the Rizal Provincial Crime Laboratory.¹² After examination,¹³ their contents tested positive for methamphetamine hydrochloride or *shabu*, a dangerous drug.¹⁴

For her part, petitioner denied the charge against her and claimed that at around 5:00 o'clock in the afternoon of March 21, 2012, she was on board her motorcycle heading to her friend's house in La Colina Subdivision, when several male individuals abruptly surrounded her outside the subdivision. They forced her to board one of their motorcycles and brought her to the Antipolo City Police Station, where she was detained. It was only on March 23, 2012 during inquest proceedings that she learned of the drug-related charge against her.¹⁵

In a Decision¹⁶ dated December 6, 2016, the RTC found petitioner **guilty** beyond reasonable doubt of the crime charged, and accordingly, sentenced her to suffer the penalty of imprisonment for a period of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, eight (8) months, and one (1) day, as maximum, and to pay a fine in the amount of ₱300,000.00.¹⁷ The trial court gave credence to the testimonies of the

⁶ See Information dated March 26, 2012; records, pp. 1-2.

⁷ Also referred to as "Denver Rinon" in some parts of the records.

⁸ *Rollo*, p. 32.

⁹ *Id.* at 32-33.

¹⁰ See records, p. 33.

¹¹ See Inventory Report dated March 22, 2012; *id.* at 24.

¹² See Request for Qualitative Examination dated March 22, 2012; *id.* at 13. See also *rollo*, p. 45.

¹³ See Chemistry Report No. D-128-12 dated March 22, 2012; records, p. 21.

¹⁴ *Rollo*, pp. 31-33.

¹⁵ *Id.* at 33-34.

¹⁶ *Id.* at 69-80.

¹⁷ *Id.* at 80.

prosecution witnesses and found that the elements of the alleged crime had been sufficiently proven. Meanwhile, it rejected petitioner's defenses of denial and frame-up, for failure to substantiate the same.¹⁸

Aggrieved, petitioner appealed¹⁹ to the CA, arguing that the trial court erred in relying on the incredulous testimonies of the prosecution witnesses and in disregarding the failure of the police officers to comply with the witness requirement under Section 21, Article II of RA 9165.²⁰

In a Decision²¹ dated June 28, 2018, the CA **affirmed** the ruling of the RTC.²² It upheld the trial court's findings and found petitioner's defense untenable for lack of evidence. Anent the police officers' non-compliance with the witness requirement under RA 9165, it ruled that such was not fatal in view of the time constraints of the situation, and because the integrity and evidentiary value of the illegal drugs remained intact.²³

Undaunted, petitioner moved for reconsideration,²⁴ which was denied in a Resolution²⁵ dated March 28, 2019; hence, the instant petition.

The Court's Ruling

The petition is meritorious.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165,²⁶ it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.²⁷ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State

¹⁸ Id. at 77-80.

¹⁹ See Notice of Appeal dated December 9, 2016; CA *rollo*, pp. 13-14.

²⁰ See Brief for the Accused-Appellant dated June 9, 2017; *rollo*, pp. 50-68.

²¹ Id. at 31-47.

²² Id. at 46.

²³ Id. at 37-46.

²⁴ Dated June 25, 2018. See CA *rollo*, pp. 174-180.

²⁵ *Rollo*, pp. 49-50.

²⁶ The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (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; while the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (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. (See *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 369; *People v. Sanchez*, G.R. No. 231383, March 7, 2018, 858 SCRA 94, 104; *People v. Magsano*, G.R. No. 231050, February 28, 2018, 857 SCRA 142, 152; *People v. Manansala*, G.R. No. 229092, February 21, 2018, 856 SCRA 359, 369-370; *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 42, 52; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018, 853 SCRA 303, 312-313; all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015] and *People v. Bio*, 753 Phil. 730, 736 [2015]).

²⁷ See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.*; *People v. Manansala*, *id.*; *People v. Miranda*, *id.*; and *People v. Mamangon*, *id.* See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

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insufficient to prove the guilt of the accused beyond reasonable doubt and, hence, warrants an acquittal.²⁸

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.²⁹ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that “marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.”³⁰ Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.³¹

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,³² a representative from the media AND the Department of Justice (DOJ), and any elected public official;³³ or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service³⁴ OR the media.³⁵ The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”³⁶

²⁸ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

²⁹ See *People v. Año*, G.R. No. 230070, March 14, 2018, 859 SCRA 380; *People v. Crispo*, supra note 26; *People v. Sanchez*, supra note 26; *People v. Magsano*, supra note 26; *People v. Manansala*, supra note 26; *People v. Miranda*, supra note 26; and *People v. Mamangon*, supra note 26. See also *People v. Viterbo*, supra note 27.

³⁰ *People v. Mamalumon*, 767 Phil. 845, 855 (2015), citing *Imson v. People*, 669 Phil. 262, 270-271 (2011). See also *People v. Ocfemia*, 718 Phil. 330, 348 (2013), citing *People v. Resurreccion*, 618 Phil. 520, 532 (2009).

³¹ See *People v. Tumulak*, 791 Phil. 148, 160-161 (2016) and *People v. Rollo*, 757 Phil. 346, 357 (2015).

³² 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,’” As the Court noted in *People v. Gutierrez* (see G.R. No. 236304, November 5, 2018) RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23; World News section, p. 6). Thus, **RA 10640 appears to have become effective on August 7, 2014.**

³³ Section 21 (1) and (2) Article II of RA 9165 and its Implementing Rules and Regulations.

³⁴ Which falls under the DOJ. (See Section 1 of Presidential Decree No. 1275, entitled “REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE” [April 11, 1978] and Section 3 of RA 10071, entitled “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE” otherwise known as the “PROSECUTION SERVICE ACT OF 2010” [lapsed into law on April 8, 2010].)

³⁵ Section 21, Article II of RA 9165, as amended by RA 10640.

³⁶ See *People v. Miranda*, supra note 26. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded “not merely as a procedural technicality but as a matter of substantive law.”³⁷ This is because “[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.”³⁸

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.³⁹ As such, the failure of the apprehending team to strictly comply with the same would 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 a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.⁴⁰ The foregoing is based on the saving clause found in Section 21 (a),⁴¹ Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.⁴² It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,⁴³ and 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

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted **genuine and sufficient efforts** to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was **reasonable** under the given circumstances.⁴⁵ Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.⁴⁶ 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

³⁷ See *People v. Miranda*, *id.* See also *People v. Macapundag*, 807 Phil. 234, 244 (2017), citing *People v. Umipang*, *supra* note 28, at 1038.

³⁸ See *People v. Segundo*, 814 Phil. 697, 722 (2017), citing *People v. Umipang*, *supra* note 28.

³⁹ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

⁴⁰ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

⁴¹ Section 21 (a), Article II of the IRR of RA 9165 pertinently states: “**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.**”

⁴² Section 1 of RA 10640 pertinently states: “**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.**”

⁴³ *People v. Almorfe*, *supra* note 40.

⁴⁴ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

⁴⁵ See *People v. Manansala*, *supra* note 26.

⁴⁶ See *People v. Gamboa*, *supra* note 28, citing *People v. Umipang*, *supra* note 28, at 1053.

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consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.⁴⁷

Notably, the Court, in *People v. Miranda*,⁴⁸ issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that “[since] the [procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence’s integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.”⁴⁹

In this case, there was a deviation from the witness requirement as the conduct of inventory and photography was not witnessed by any of the three (3) witnesses provided under Section 21, Article II of RA 9165. This may be easily gleaned from the Inventory Report⁵⁰ of the seized items which only confirms the presence of PO1 Riñon and PO2 Bogay, which fact was also substantially admitted by the former on cross-examination.⁵¹ As earlier stated, it is incumbent upon the prosecution to account for the absence of the required witnesses by presenting a justifiable reason therefor or, at the very least, by showing that the apprehending officers exerted genuine and sufficient efforts to secure their presence. Markedly, the absence of an elected public official was left **unacknowledged**, much less justified.

Meanwhile, to justify the absence of the respective representatives from the DOJ and the media, PO1 Riñon and PO2 Bogay executed a sworn written explanation⁵² explaining that they failed to procure their presence due to “lack of material time,” which was also reiterated in their individual testimonies on cross-examination, to wit:

Cross-Examination of PO1 Riñon

[Atty. Brend Virgilio S. Vergara]: And annexed to your inventory report is an explanation, can you enlighten us, what is this explanation all about?

[PO1 Riñon]: It would explain the reason why we were not able to get a DOJ representative and the media.

⁴⁷ See *People v. Crispo*, supra note 26.

⁴⁸ Supra note 26.

⁴⁹ See *id.*

⁵⁰ Records, p. 8.

⁵¹ See TSN, November 14, 2013, *id.* at 460.

[Atty. Brend Virgilio S. Vergara]: And annexed to your inventory report is an explanation, can you enlighten us, what is this explanation all about?

[PO1 Riñon]: It would explain the reason **why we were not able to get a DOJ representative and the media.**” (Emphasis supplied)

⁵² Dated March 22, 2012; see records, p. 27.

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Q: So what is the reason why is it that a representative from the DOJ and the media is required in the preparation and conduct of the inventory of the seized items?

A: Requirements po kasi iyon, kailangan ng media at saka ng DOJ representative gawa ng apo nang hindi po naming nagawa ang requirements na iyon, gumawa naman kami ng explanation **due to lack of material time** na rin po.⁵³

Cross-Examination of PO2 Bogay

[Atty. Brend Virgilio S. Vergara]: Attached to the inventory report is an explanation, which the defense marked as Exhibit "2-A". Can you please explain to us why there is a need for an explanation in relation to the preparation of the inventory report?

[PO2 Bogay]: Nung time na iyon sir, **wala na po kaming oras na makahanap ng representative sa media at DOJ.**

(translation) At that time we had no time to look for a representative from the media and DOJ due to **lack of material time** sir.⁵⁴

The Court, however, finds such explanation untenable.

In *People v. Lim*,⁵⁵ the Court explained that the absence of the required witnesses must be justified based on acceptable reasons such as: "(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ [and] media representative[s] and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape."⁵⁶ Likewise, it bears to stress that police officers are compelled not only to state reasons for their non-compliance, but must 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.⁵⁷

In the case at bar, it appears that the police officers **failed to exert genuine and sufficient efforts** to comply with the witness requirement. While the arresting officers discovered petitioner's possession of illegal

⁵³ TSN, November 14, 2013; id. at 460. Emphasis supplied.

⁵⁴ TSN, May 15, 2014; id. at 580. Emphasis supplied.

⁵⁵ See G.R. No. 231989, September 4, 2018.

⁵⁶ See id., citing *People v. Sipin*, G.R. No. 224290, June 11, 2018.

⁵⁷ *People v. Crispo*, supra note 26.

drugs spontaneously and without prior anticipation, they failed to provide any plausible explanation as to why the constraints of time impaired their ability to secure the proper witnesses within the period allotted under Article 125 of the Revised Penal Code; thus, it cannot be ascertained whether their actions were reasonable under the given circumstances. In fact, contrary to their sworn written explanation, the respective testimonies of PO1 Riñon and PO2 Bogay on cross-examination show that they did not even bother to attempt to contact the proper witnesses and admittedly, had no knowledge of how to do so, to wit:

Cross-Examination of PO1 Riñon

[Atty. Brend Virgilio S. Vergara]: So, what is it that a representative from the DOJ should be present at that very moment when you conducted an inventory of the seized items?

[PO1 Riñon]: It was a requirement sir.

Q: Why is it a requirement?

A: It was a requirement under R.A. 9165, sir.

Q: So, what is that in the R.A. 9165 that requires DOJ representative to be present?

A: I don't know sir.

x x x x

Q: So Mr. Witness, you said that you were not able to get the presence of a DOJ representative and media for lack of material time. My question now, **why is it that you lack time in trying to contact these persons when the incident happened in the morning?**

A: **It's our investigator's tasked [sic] to coordinate or to call a media or a representative from the DOJ.**

Q: So, as the arresting officer or as the person who signed this explanation, can you state to this Honorable Court who is that personnel or officer from the Department of Justice whom you are to contact?

A: **I have no idea** sir, maybe a lawyer.

Q: So, **you do not exactly know whom to contact?**

A: **Yes, sir.**

x x x x

Q: So, this statement that you failed to get hold of the presence of the media and DOJ representative is false?

A: Iyong duty investigator po ang kasi...

Q: ...hindi, ikaw ang tinatanong ko kung mali kasi iyong sinasabi mo kanina di ba iyong imbestigador, e dito taliwas sa sinasabi mo na "we" kayong dalawa ang pumirma... we aren't to get hold the presence of media representative due to lack of material time, so this is wrong you mean to say, as compared to your earlier statement that it was the investigating officer who coordinated with the DOJ?

A: Yes, sir.

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Q: So, this was wrong and you know that it was made under oath?

A: Yes, sir.⁵⁸

Cross-Examination of PO2 Bogay

[Atty. Brend Virgilio S. Vergara]: Why is it that you are required to make an explanation if you failed to communicate with the DOJ representative or personnel from the media?

(No answer from the witness)

Q: You do not know the reason why?

A: Yes, sir.


Q: Who told you that you have to place an explanation if there is a failure on your part to communicate with a representative from DOJ and from the media?

(no answer from the witness)⁵⁹

In view of the foregoing, the Court is impelled to conclude that the integrity and evidentiary value of the items purportedly seized from petitioner – which constitute the *corpus delicti* of the crime charged – have been compromised,⁶⁰ hence, petitioner's acquittal is in order.

WHEREFORE, the petition is **GRANTED**. The Decision dated June 28, 2018 and the Resolution dated March 28, 2019 of the Court of Appeals in CA-G.R. CR. No. 39394 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Melanie Grefaldo y De Leon is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to cause her immediate release, unless she is being lawfully held in custody for any other reason.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice

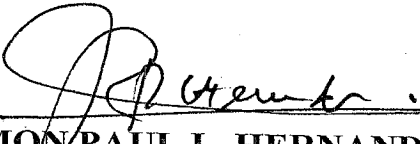
WE CONCUR:


ANDRES B. REYES, JR.
Associate Justice

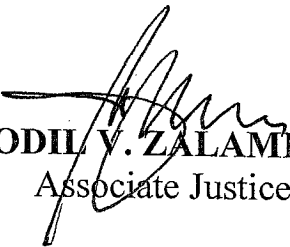
⁵⁸ TSN, November 14, 2013; id. at 460-463. Emphasis supplied.

⁵⁹ TSN, May 15, 2014; records, pp. 580-581.

⁶⁰ See *People v. Patacsil*, G.R. No. 234052, August 6, 2018.



RAMON PAUL L. HERNANDO
 Associate Justice

On official leave
HENRI JEAN PAUL B. INTING
 Associate Justice


RODIL V. ZALAMEDA
 Associate Justice

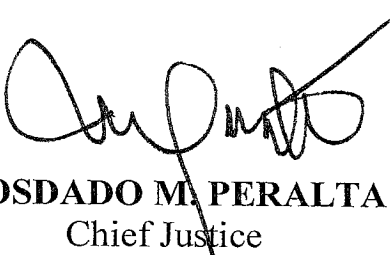
ATTESTATION

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 Decision.


ESTELA M. PERLAS-BERNABE
 Senior Associate Justice
 Chairperson, Second Division

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.


DIOSDADO M. PERALTA
 Chief Justice