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SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SPECIAL FIRST DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 223712
Plaintiff-Appellee,

Present:

-versus-

LEONEN, J., *Working Chairperson*,*
CARANDANG,
LAZARO-JAVIER,
INTING, and
ZALAMEDA, JJ.

VICTOR SUMILIP y TILLO,
Accused-Appellant.

Promulgated:
SEP 11 2019

X-----X

RESOLUTION

LEONEN, J.:

The Comprehensive Dangerous Drugs Act of 2002 spells out strict chain of custody requirements. Noncompliance with these requirements may only be excused upon a showing of justifiable grounds *and* specific measures taken by law enforcers to preserve the integrity of items allegedly seized from an accused. The prosecution's failure to demonstrate these amounts to its failure to establish the *corpus delicti* of drug offenses. The accused's acquittal must then ensue.

This Court resolves an appeal from the Decision¹ of the Court of Appeals. The Court of Appeals affirmed the October 3, 2011 Decision of

* Designated additional member per Raffle dated February 12, 2018.

the Regional Trial Court, which convicted Victor Sumilip y Tillo (Sumilip) of the charge of illegal sale of dangerous drugs.²

In an Information, Sumilip was charged with violation of Section 5 of Republic Act No. 9165,³ or the Comprehensive Dangerous Drugs Act, for the illegal sale of dangerous drugs. The Information read:

That on or about the 4th day of July 2009, in the City of San Fernando, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court the above-named accused, without the necessary permit or authority from the proper governmental agency or office, did then and there, unlawfully and feloniously for and in consideration of the sum of money in the amount of FIVE HUNDRED Pesos (PHP500.00) Philippine Currency, sell and deliver FIFTY ONE point FIFTEEN (51.15) GRAMS OF Marijuana, a dangerous drug, wrapped in newspaper to PO2 Ricardo Annague who posed as buyer thereof using marked money, a five hundred pesos bill bearing serial No. CQ318210.

CONTRARY TO LAW.⁴ (Citation omitted)

¹ *Rollo*, pp. 2–12. The May 21, 2015 Decision was penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Andres B. Reyes, Jr. (now a member of this Court) and Ricardo R. Rosario of the First Division, Court of Appeals, Manila.

² *Id.* at 12. A copy of the Decision of the Regional Trial Court, Branch 66, San Fernando City, La Union was not attached to the rollo.

³ Republic Act No. 9165 (2002), sec. 5 provides:

SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

⁴ *Rollo*, p. 3.

On arraignment, Sumilip pleaded not guilty to the offense charged.⁵ During trial, the prosecution presented three (3) witnesses: (1) Police Officer 2 Ricardo Annague (PO2 Annague); (2) Police Officer 3 Paul Batnag (PO3 Batnag); and (3) Police Senior Inspector Anamelisa Bacani.⁶

According to the prosecution, at about 1:00 p.m. on July 4, 2009, a confidential informant reported to PO2 Annague that a certain "Victor Sumilip" was selling illegal drugs along Ancheta Street, Catbangan, San Fernando City, La Union. A buy-bust team was then formed with PO2 Annague as the designated poseur-buyer and PO3 Batnag as back-up. A ₱500.00 bill was prepared as the buy-bust money. It was agreed on that PO2 Annague would remove his cap to signify to the rest of the team that the sale of drugs had been consummated.⁷

The team later went to La Union Medical Diagnostic Center on Ancheta Street, where PO2 Annague and the informant approached Sumilip. After the informant had introduced PO2 Annague as an interested marijuana buyer, Sumilip took out of his left pocket marijuana leaves wrapped in newspaper and handed them to PO2 Annague. In exchange, PO2 Annague handed Sumilip the marked ₱500.00 bill. At this, PO2 Annague removed his cap, signaling the consummation of the sale. Then, with PO3 Batnag's aid, PO2 Annague arrested Sumilip and informed him of his constitutional rights.⁸

Sumilip and the marijuana were then taken to the San Fernando Police Station. There, PO2 Annague marked, inventoried, and photographed the seized marijuana in the presence of Sumilip and some barangay officials. Thereafter, the marijuana was brought to the Philippine National Police Crime Laboratory for examination.⁹

Sumilip, his sister Carla Maanes, and his cousin Julie Estacio, testified for the defense. From their testimonies, the defense alleged that while Sumilip was eating in a *turo-turo* restaurant on Ancheta Street at around 11:10 a.m. on July 4, 2009, two (2) men in civilian clothing approached and aimed a gun at him. After they had ordered Sumilip to get up, the men held his hand, frisked him, and searched his bag. They forced him to board a car and brought him to Tanqui Police Station. Later on, he was brought back to the restaurant where the two (2) men simulated his arrest for supposedly selling marijuana.¹⁰

⁵ Id.

⁶ Id.

⁷ Id. at 3-4.

⁸ Id. at 4.

⁹ Id.

¹⁰ Id. at 4-5.

In its October 3, 2011 Decision,¹¹ the Regional Trial Court found Sumilip guilty beyond reasonable doubt of illegal sale of dangerous drugs. The dispositive portion of this Decision read:

WHEREFORE, premises considered, accused VICTOR SUMILIP Y Tillio (*sic*) is hereby found GUILTY beyond reasonable doubt for violating Section 5, Article II of Republic Act No. 9165 and is sentenced to suffer the penalty of life imprisonment and a fine of five hundred thousand pesos Php)500,000). (*sic*)

SO ORDERED.¹² (Citation omitted)

In its assailed Decision,¹³ the Court of Appeals affirmed the Regional Trial Court Decision, as follows:

WHEREFORE, premises considered, the instant appeal is **DENIED**. The Decision dated October 3, 2011 of the Regional Trial Court (RTC) of San Fernando City, La Union, Branch 66 in Criminal Case No. 8384 is hereby **AFFIRMED**.

SO ORDERED.¹⁴ (Emphasis in the original)

In affirming Sumilip's conviction, the Court of Appeals reasoned that the prosecution demonstrated an unbroken chain of custody of the marijuana taken from Sumilip.¹⁵ It did not lend credence to Sumilip's denial and allegation of being framed.¹⁶

Thus, Sumilip filed his Notice of Appeal.¹⁷

In a February 14, 2018 Resolution,¹⁸ this Court's First Division dismissed Sumilip's appeal.

On June 14, 2018, Sumilip filed a Motion for Reconsideration.¹⁹ He maintains that the prosecution failed to show an unbroken chain of custody of the marijuana supposedly seized from him. He emphasizes that the prosecution failed to account for how the marijuana was handled upon seizure. He notes that the identity of the person who had custody of the

¹¹ Id. at 5.

¹² Id.

¹³ Id. at 2–12.

¹⁴ Id. at 12.

¹⁵ Id. at 8.

¹⁶ Id. at 10.

¹⁷ Id. at 13–15.

¹⁸ Id. at 34–35.

¹⁹ Id. at 36–42.

marijuana from the place of his arrest to the police station was never disclosed.²⁰

Acting on the Motion for Reconsideration, this Court, in its August 28, 2019 Resolution,²¹ reinstated Sumilip's appeal.

For this Court's resolution is the issue of whether or not accused-appellant Victor Sumilip y Tillo is guilty beyond reasonable doubt of the offense of illegal sale of dangerous drugs.

Conviction in criminal cases demands that the prosecution prove an accused's guilt beyond reasonable doubt.²² Rule 133, Section 2 of the Rules of Court provides:

SECTION 2. Proof beyond reasonable doubt. — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

This quantum of proof imposes upon the prosecution the burden to overcome the constitutional presumption of innocence.²³ The prosecution must do so by presenting its own evidence, without relying on the weakness of the arguments and proof of the defense.²⁴ This proceeds from the constitutional mandate of due process.²⁵ In *Daayata v. People*:²⁶

Proof beyond reasonable doubt charges the prosecution with the immense responsibility of establishing moral certainty. The prosecution's case must rise on its own merits, not merely on relative strength as against that of the defense. Should the prosecution fail to discharge its burden, acquittal must follow as a matter of course.²⁷

²⁰ Id. at 37.

²¹ Id. at 43.

²² RULES OF COURT, Rule 133, sec. 2.

²³ CONST., art. III, sec. 14(2).

²⁴ *People v. Que*, G.R. No. 212994, January 31, 2018, 853 SCRA 487, 499–500 [Per J. Leonen, Third Division], citing *Macayan, Jr. v. People*, 756 Phil. 202 (2015) [Per J. Leonen, Second Division]; CONST. art. III, sec. 1; CONST., art. III, sec. 14 (2); *People v. Solayao*, 330 Phil. 811, 819 (1996) [Per J. Romero, Second Division]; and *Boac v. People*, 591 Phil. 508 (2008) [Per J. Velasco, Jr., Second Division].

²⁵ Id.

²⁶ 807 Phil. 102 (2017) [Per J. Leonen, Second Division].

²⁷ Id. at 104.

II

Conviction for illegal sale of dangerous drugs requires proof of its elements:

In actions involving the illegal sale of dangerous drugs, the following elements must first be established: (1) proof that the transaction or sale took place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.²⁸

Establishing the *corpus delicti* requires strict compliance with the chain of custody requirements spelled out by the Comprehensive Dangerous Drugs Act. Section 21 of Republic Act No. 9165²⁹ lists steps that must be observed from the moment of seizure of drugs and drug paraphernalia to their examination until their presentation before a court:


SECTION 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;
- (2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;
- (3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous

²⁸ *People v. Morales*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division] citing *People v. Darisan*, 597 Phil. 479 (2009) [Per J. Corona, First Division].

²⁹ Section 21 of Republic Act No. 9165 has since been amended by Republic Act No. 10640 in 2014. However, the incidents concerning this case transpired in 2009; as such, the police officers' actions here are governed by Republic Act No. 9165.

drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however,* That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

- (4) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of 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 DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: *Provided,* That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: *Provided, further,* That a representative sample, duly weighed and recorded is retained;
 - (5) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to the court having jurisdiction over the case. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;
 - (6) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;
 - (7) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same; and
 - (8) Transitory Provision: a) Within twenty-four (24) hours from the effectivity of this Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies
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shall, with leave of court, be burned or destroyed, in the presence of representatives of the Court, DOJ, Department of Health (DOH) and the accused and/or his/her counsel, and, b) Pending the organization of the PDEA, the custody, disposition, and burning or destruction of seized/surrendered dangerous drugs provided under this Section shall be implemented by the DOH.

In *People v. Holgado*,³⁰ this Court explained the importance of preserving the integrity of items seized during drug operations:

The identity of the prohibited drug must be established with moral certainty. Apart from showing that the elements of possession or sale are present, the fact that the substance illegally possessed and sold in the first place is the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.³¹

Similarly, in *People v. Belocura*,³² where the identity of the allegedly seized drug was not established, this Court discussed:

Worse, the Prosecution failed to establish the identity of the prohibited drug that constituted the *corpus delicti* itself. The omission naturally raises grave doubt about any search being actually conducted and warrants the suspicion that the prohibited drugs were planted evidence.

In every criminal prosecution for possession of illegal drugs, the Prosecution must account for the custody of the incriminating evidence from the moment of seizure and confiscation until the moment it is offered in evidence. That account goes to the weight of evidence. It is not enough that the evidence offered has probative value on the issues, for the evidence must also be sufficiently connected to and tied with the facts in issue. The evidence is not relevant merely because it is available but that it has an actual connection with the transaction involved and with the parties thereto. This is the reason why authentication and laying a foundation for the introduction of evidence are important.³³ (Citations omitted)

Without credible proof of the *corpus delicti*, there can be no crime of illegal sale of dangerous drugs. There is no nexus between whatever items are presented in court and the transaction or activity attributed to an accused. Ultimately, then, the accused cannot be said to have been the author of the alleged illegal act.³⁴

³⁰ 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

³¹ Id. at 93 citing *People v. Lorenzo*, 633 Phil. 393, 401 (2010) [Per J. Perez, Second Division].

³² 693 Phil. 476 (2012) [Per J. Bersamin, First Division].

³³ Id. at 495–496.

³⁴ Id.

The chain of custody requirements are not a trivial, hollow list of procedural niceties. Rather:

. . . they are calibrated to preserve the even greater interest of due process and the constitutional rights of those who stand to suffer from the State's legitimate use of force, and therefore, stand to be deprived of liberty, property, and, should capital punishment be imposed, life. This calibration balances the need for effective prosecution of those involved in illegal drugs and the preservation of the most basic liberties that typify our democratic order.³⁵

Section 21's mandated chain of custody consists of four (4) links. In each of these links, the prosecution must account for the manner of handling and turnover of the seized items to every designated person or officer forming part of the chain. In *People v. Nandi*:³⁶

[T]he following links should be established in the chain of custody of the confiscated item: **first**, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; **second**, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; **third**, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and **fourth**, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.³⁷ (Emphasis supplied)

A failure to make such an account at any stage amounts to a broken chain of custody and diminishes the evidentiary value of whatever items are eventually presented in court.

There are, however, instances when strict compliance with Section 21 is concededly impossible or impracticable. Noncompliance may be excused when the prosecution establishes that: (1) there is a justifiable ground for noncompliance; and (2) the integrity and evidentiary value of the seized items are properly preserved.³⁸ The prosecution must address every procedural lapse. To satisfy a court that the drugs or drug-related items it is presenting are authentic and have been preserved, the prosecution must plead and prove justifiable grounds and the specific measures taken by law enforcers to maintain the seized items' integrity. In *People v. Angeles*:³⁹

[B]efore substantial compliance with the procedure is permitted, not only must the integrity and evidentiary value of the drugs seized be preserved, there must be a justifiable ground for its noncompliance in the first place.

³⁵ *People v. Que*, G.R. No. 212994, January 31, 2018, 853 SCRA 487, 491 [Per J. Leonen, Third Division].

³⁶ 639 Phil. 134 (2010) [Per J. Mendoza, Second Division].

³⁷ Id. at 144–145 citing *People v. Kamaad*, 624 Phil. 289 (2010) [Per J. Brion, Second Division].

³⁸ *People v. Viterbo*, 739 Phil. 593, 603 (2014) [Per J. Perlas-Bernabe, Second Division].

³⁹ *People v. Angeles*, G.R. No. 218947, June 20, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64269>> [Per J. Martires, Third Division].

*The prosecution has a two-fold duty of identifying any lapse in procedure and proving the existence of a sufficient reason why it was not strictly followed.*⁴⁰ (Emphasis supplied)

III

The assailed Court of Appeals Decision glossed over the police officers' glaring failure to comply with the Comprehensive Dangerous Drugs Act's chain of custody requirements.

The apprehending officers failed to credibly mark, inventory, and take photographs of the allegedly seized marijuana. Section 21(1) of the Comprehensive Dangerous Drugs Act requires inventory and taking of photographs "*immediately after seizure and confiscation[.]*"⁴¹ It also requires the presence of the accused, an elected public official, a Department of Justice representative, and a media representative.⁴²

In *People v. Tomawis*,⁴³ this Court discussed the requirement of immediacy in relation to the presence of the necessary witnesses:

The phrase "immediately after seizure and confiscation" means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. And only if this is not practicable, the IRR allows that the inventory and photographing could be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team. By the same token, however, this also means that the three required witnesses should already be physically present at the time of apprehension — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. Simply put, the buy-bust team has enough time and opportunity to bring with them said witnesses.⁴⁴

This Court further explained:

[T]he presence of the [four] witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of

⁴⁰ Id.

⁴¹ Republic Act No. 9165 (2002), sec. 21(1).

⁴² Republic Act No. 9165 (2002), sec. 21(1). As amended by Republic Act No. 10640, Section 21(1) requires at least three (3) persons to be present during the physical inventory and photographing. These persons are: (1) the accused or the person/s from whom the items were seized; (2) an elected public official; and (3) a representative of the National Prosecution Service. There are, however, alternatives to the first and the third. As to the first (i.e., the accused or the person/s from whom items were seized), there are two (2) alternatives: first, his or her representative; and second, his or her counsel. As to the representative of the National Prosecution Service, a representative of the media may be present in his or her place.

⁴³ G.R. No. 228890, April 18, 2018, 862 SCRA 131 [Per J. Caguioa, Second Division].

⁴⁴ Id. at 146.

the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs “immediately after seizure and confiscation.”⁴⁵

The inventory and taking of photographs must, as a rule, be done at the actual place of apprehension. Likewise, the required witnesses must be present right during the apprehension and not only during the subsequent marking, inventory, and taking of photographs.

In this case, the marking, inventory, and taking of photographs were not done immediately after the apprehension. Rather, the police officers took time to transfer to the San Fernando Police Station.⁴⁶ Only barangay officials were claimed by the prosecution to be present during the belated marking, inventory, and taking of photographs. There was no Department of Justice Representative. Neither was there a media representative. Worse, there is no showing that even those barangay officials were present during the actual apprehension.

Yet, just as glaring is the prosecution’s failure to specify any justification for the police officers’ lapses or a satisfactorily detailed account of measures they had taken to preserve the allegedly seized marijuana’s identity. The prosecution appears content to have courts merely accept its own self-serving guarantees.

Unfortunately, the Court of Appeals was quick to conclude that “the prosecution has sufficiently established the continuous and unbroken chain of custody of the illegal seized item.”⁴⁷ According to it:

First, the seizure of the confiscated marijuana was established thru the statements of both PO2 Annague and PO3 Batnag and the Certification of Inventory. According to their testimonies, after they arrested accused-appellant, they took pictures, together with the barangay officials of the seized illegal drug and prepared the certificate of inventory. The marking is evident in the newspaper used in wrapping the marijuana leaves and the marked money, which revealed the initial “RAA”. The occurrence of the second link is illustrated when Police Inspector Jessie L. Quesada prepared a Request for Laboratory Examination of the seized illegal drug. The third and final link does not need to be established as the parties have stipulated that the specimen subject of this case is the same specimen submitted to the forensic chemist for examination.⁴⁸ (Citations omitted)

⁴⁵ Id. at 150.

⁴⁶ *Rollo*, p. 4.

⁴⁷ Id. at 10.

⁴⁸ Id. at 8–9.

The Court of Appeals failed to consider that the prosecution did not identify the person who had custody of the allegedly seized marijuana from the time of arrest to when it was marked, inventoried, and photographed. Worse, the prosecution made no averments as to the measures taken by that custodian to maintain the identity and integrity of the allegedly seized marijuana.

In *People v. Dela Cruz*,⁴⁹ this Court was not impressed by the guarantees of a police officer who, having initial custody of seized sachets supposedly containing shabu, merely kept those sachets in his pocket up until they were handed over for examination:

The prosecution effectively admits that from the moment of the supposed buy-bust operation until the seized items' turnover for examination, these items had been in the sole possession of a police officer. In fact, not only had they been in his possession, they had been in such close proximity to him that they had been nowhere else but in his own pockets.

Keeping one of the seized items in his right pocket and the rest in his left pocket is a doubtful and suspicious way of ensuring the integrity of the items. Contrary to the Court of Appeals' finding that PO1 Bobon took the necessary precautions, we find his actions reckless, if not dubious.

Even without referring to the strict requirements of Section 21, common sense dictates that a single police officer's act of bodily-keeping the item(s) which is at the crux of offenses penalized under the Comprehensive Dangerous Drugs Act of 2002, is fraught with dangers. One need not engage in a meticulous counter-checking with the requirements of Section 21 to view with distrust the items coming out of PO1 Bobon's pockets. That the Regional Trial Court and the Court of Appeals both failed to see through this and fell — hook, line, and sinker — for PO1 Bobon's avowals is mind-boggling.

Moreover, PO1 Bobon did so without even offering the slightest justification for dispensing with the requirements of Section 21.

Section 21, paragraph 1, of the Comprehensive Dangerous Drugs Act of 2002, includes a proviso to the effect that “noncompliance of (sic) 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.” Plainly, the prosecution has not shown that — on September 14, 2004, when dela Cruz was arrested and the sachets supposedly seized and marked — there were “justifiable grounds” for dispensing with compliance with Section 21. All that the prosecution has done is insist on its self-serving assertion that the integrity of the seized sachets has, despite all its lapses, nevertheless been preserved.⁵⁰

⁴⁹ 744 Phil. 816 (2014) [Per. J. Leonen, Second Division].

⁵⁰ Id at 834–835.

In *Dela Cruz*, this Court considered as unreliable the keeping of allegedly seized sachets in an officer's pockets. This, even as the prosecution insisted that the officer's act of segregating sachets in different pockets was an ample safeguard.

The situation here is significantly worse than that in *Dela Cruz*. The prosecution here not only failed to allege a semblance of precautionary measures, but it never even named the person having custody of the drug alleged seized. Where the prosecution in *Dela Cruz* failed to impress, with greater reason should this Court, in this case, refrain from condoning the prosecution's inadequacies. The utter dearth of specific and detailed accounts on how the allegedly seized marijuana's identity and integrity were preserved while in transit is a glaring, fatal flaw vis-à-vis Section 21's mandate.

IV

The police officers' failure to properly adhere to the chain of custody requirements cannot be swept away by the convenient presumption that they acted accordingly. This Court has previously explained that the presumption of regularity in the performance of official duties only benefits officers who were shown to have acted in keeping with established standards. It cannot cure irregularities and manifest deviations from what is legally required:

A presumption of regularity in the performance of official duty is made in the context of an existing rule of law or statute authorizing the performance of an act or duty or prescribing a procedure in the performance thereof. The presumption applies when nothing in the record suggests that the law enforcers deviated from the standard conduct of official duty required by law; where the official act is irregular on its face, the presumption cannot arise.⁵¹

This case is littered with fatal gaps in the custody of the item, which is at the core of accused-appellant's prosecution. Far from displaying the diligence apropos to establishing guilt beyond reasonable doubt, the prosecution has been content on relying on its own assurances and misplaced presumptions. This Court takes this opportunity to correct the error validated by the Regional Trial Court and the Court of Appeals. Accused-appellant's guilt has not been shown beyond reasonable doubt. He must be acquitted.

WHEREFORE, the May 21, 2015 Decision of the Court of Appeals in CA-G.R. CR. HC No. 05301 is **REVERSED** and **SET ASIDE**.

⁵¹ *People v. Que*, G.R. No. 212994, January 31, 2018, 853 SCRA 487, 507-508 [Per J. Leonen, Third Division] citing *People v. Kamad*, 624 Phil. 289 (2010) [Per J. Brion, Second Division].

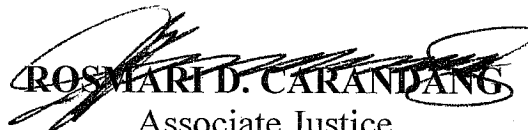
Accused-appellant Victor Sumilip y Tillo is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court within five (5) days from receipt of this Resolution the action he has taken. Copies shall also be furnished to the Director General of Philippine National Police and the Director General of Philippine Drug Enforcement Agency for their information.

SO ORDERED.

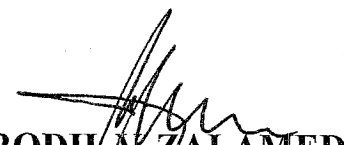

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


ROSMAR D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

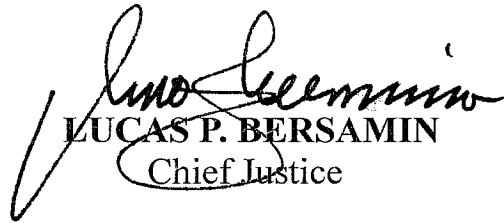
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARVIC M.V.F. LEONEN**

Associate Justice
Working Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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