

Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **November 28, 2019** which reads as follows:*

**“G.R. No. 232461 (People of the Philippines v. Winnie Villareal y Cruz)**

**The Case**

This appeal assails the Court of Appeals’ Decision dated January 22, 2016<sup>1</sup> in CA-G.R. CR-HC No. 06732 affirming appellant’s conviction for violation of Sections 5 and 11, Article II of Republic Act No. 9165 (RA 9165).

**The Proceedings Before the Trial Court**

**The Charge**

In Criminal Case Nos. C-83742 and C-83743, appellant Winnie Villareal y Cruz was charged with illegal sale of dangerous drugs and illegal possession of dangerous drugs, respectively under the following Informations:

That on or about the 24<sup>th</sup> day of March 2010 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully, and feloniously sell and deliver to SO2 MADELYN E. GARDUQUE, who posed as buyer, METHYLAMPHETAMINE HYDROCHLORIDE

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<sup>1</sup> Penned by Associate Justice Mario V. Lopez and concurred in by Associate Justice Rosmari D. Carandang (now a member of this Court) and Associate Justice Myra V. Garcia-Fernandez; *rollo*, pp. 2-14.

(*Shabu*) weighing 4.5642 grams, without corresponding license or prescription therefor, knowing the same to be such.

Contrary to law.<sup>2</sup>

x x x                      x x x                      x x x

That on or about the 24<sup>th</sup> day of March 2010 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously have in her possession, custody and control Two (2) heat-sealed transparent plastic sachet each containing METHYLAMPHETAMINE HYDROCHLORIDE (*Shabu*) weighing 4.5355 gram(s) and 0.4709 grams (sic) and one (1) open transparent plastic sachet containing white residue, which when subjected for (sic) laboratory examination gave positive result to the tests for METHYLAMPHETAMINE (sic) HYDROCHLORIDE, a dangerous drug, in gross violation of [RA 9165].

Contrary to law.<sup>3</sup> (words in brackets added)

On arraignment, appellant pleaded “not guilty” to both charges. Trial ensued.

Forensic Chemist Shaila Seville, SO2 Medelyn Garduque, IO2 Louie Valdez, SO2 Jacqueline Sogoc, and IO2 Anabell Pacquing testified for the prosecution; while appellant, Rubelita Aquino, Hipolito Dasmariñas, and Perfecto Villareal testified for the defense.

### **The Prosecution’s Evidence**

**SO2 Medelyn E. Garduque** of the Philippine Drug Enforcement Agency (PDEA) testified that on March 24, 2010, a confidential informant went to their headquarters at Barangay Pinyahan, Quezon City. The latter reported to their team leader SO2 Jacqueline Sogoc that appellant, who was looking for a buyer of *shabu*, offered him a commission if he were to find one. On SO2 Sogoc’s instruction, the informant called appellant on the phone that he had found a buyer. She (SO2 Garduque) took the phone and talked to appellant herself. She confirmed with appellant her intention to purchase five (5) grams of *shabu*. Appellant agreed and pegged the price at ₱32,000.00. They sealed the deal on the same day, at 8 o’clock in the evening along Nanca Road, Caloocan City.<sup>4</sup>

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<sup>2</sup> *Rollo*, p. 2.

<sup>3</sup> *Id.* at 3.

<sup>4</sup> *Id.* at 3-4.

Thereupon, SO2 Sogoc formed a buy-bust team, designated her as poseur-buyer and instructed them that their target was appellant or "alias Winnie." SO2 Sogoc gave her one ₱500.00 bill which she marked "MEG." The buy-bust money was placed inside a white envelope along with boodle money made of cut-out magazine pages.<sup>5</sup>

Around 7 o'clock in the evening, the team headed to Nanca Road, Caloocan City. She and the informant waited for appellant in the area. When appellant arrived, the informant introduced the two of them. Appellant then took a small plastic sachet containing white crystalline substance out of a red coin purse, gave it to her, saying, "*Mare, eto na yung bibilhin mo.*" In exchange, she gave appellant the white envelope containing the buy-bust and boodle money. She then executed the pre-arranged signal by moving her bag to her right shoulder. Acting on cue, the back-up police officers closed in and arrested appellant.<sup>6</sup>

During the arrest, appellant dropped the red coin purse and the money so she picked them up. She opened the red coin purse and saw three (3) more plastic sachets which also contained white crystalline substance. She then brought the seized items to the PDEA Headquarters in Pinyahan, Quezon City. There, she photographed and inventoried the seized items. Afterwards, she had the inventory signed by a barangay official of Pinyahan. She also requested a drug test on appellant and laboratory examination of the seized items.<sup>7</sup>

The other team members: **SO2 Jacqueline Sogoc**, **IO2 Anabel Pacquing** and **IO2 Louie Valdez** corroborated SO2 Garduque's testimony.<sup>8</sup>

In her Chemistry Report No. PDEA-DD010-113 dated March 24, 2010, **Forensic Chemist Shaila Seville** stated that all four plastic sachets tested positive for *methamphetamine hydrochloride*. She likewise conducted a drug test on appellant and reported that the latter's urine sample tested positive for the same drug and its metabolite.<sup>9</sup>

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<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.* at 4.

<sup>7</sup> *Id.* at 4-5.

<sup>8</sup> *Id.* at 5-6.

<sup>9</sup> *Id.* at 6.

### The Defense's Evidence

**Appellant** testified that on March 24, 2010, around 5:30 in the afternoon, she was inside the Cruz family compound in Barangay 79, Caloocan City with Hipolito Dasmariñas, some *barangay kagawads* and residents of the compound. She was cutting the hair of her uncle Perfecto Villareal when armed men wearing PDEA uniforms passed by in front of their compound. After a while, they returned and she heard them say "Negative." The men then approached her and asked if she knew a certain Benjie. She answered "No." One of the PDEA agents got mad and told the others to take her with them. She resisted while Perfecto and Hipolito tried to help her. The PDEA agents nevertheless succeeded in taking her and Hipolito to their headquarters.<sup>10</sup>

There, she saw a red coin purse on top of a long table but denied knowing who its owner was. The agents brought her inside a room where she was told to pay ₱300,000.00 in exchange for her release. She replied she did not have the money. The agents then ordered her to sign a blank form pertaining to a case to be filed against her.

She did not know the men who arrested her nor did she have any grudge against them. She did not file a case against the PDEA agents, albeit the members of her family would file charges once the present case got terminated.<sup>11</sup>

**Kagawad Rubelita Aquino** of Barangay 78, Pio, Valenzuela, Caloocan City, corroborated appellant's testimony. She was visiting her friend *Kagawad* Josie Cruz at the Cruz Compound when she saw appellant talking to five or six men wearing PDEA uniforms and carrying guns. Suddenly, she heard one of the agents say, "*Kunin na yan!*" Appellant struggled while Perfecto and Hipolito tried to help her. Still, the agents succeeded in taking appellant and Hipolito away. She went to appellant's relatives to inform them what happened but did not write a report about the incident since it happened outside the jurisdiction of her *barangay*.<sup>12</sup>

**Hipolito Dasmariñas** testified that he was in the Cruz Compound having a drinking spree with his friend *Kagawad* Jun Parena when armed men tried to take appellant away. He intervened

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<sup>10</sup> *Id.* at 6-7.

<sup>11</sup> *Id.* at 7.

<sup>12</sup> *Id.*

and asked why they were taking his friend. The men did not answer and instead took them both to the PDEA Headquarters. Shocked and frightened, he and appellant remained silent. He was allowed to go home only after being kept at the PDEA headquarters for a day.<sup>13</sup>

**Perfecto Villareal** corroborated the testimonies of appellant and Hipolito.<sup>14</sup>

### The Trial Court's Decision

By Decision dated January 20, 2014,<sup>15</sup> the trial court found appellant guilty, as charged, *viz*:

Premises considered, this court finds and so holds the accused **Winnie Villareal y Cruz**, **GUILTY** beyond reasonable doubt for violation of Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and imposes upon her the following:

1. In **Crim. Case No. C-83742**, the penalty of Life Imprisonment and a fine of Five Hundred Thousand Pesos (₱500,000.00); and
2. In **Crim. Case No. C-83743**, the penalty of imprisonment of Twelve (12) years and One (1) day to Fourteen (14) years and a fine of Three Hundred Thousand Pesos (₱300,000.00).

The drugs subject matter of these cases are hereby confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.<sup>16</sup>

According to the trial court, appellant adduced no evidence other than her bare claim that she was doing nothing wrong and that she was just trimming her uncle's hair when the PDEA agents arrived and arrested her. On the other hand, SO2 Garduque gave a detailed account of how the illegal transaction took place. She positively identified the plastic sachet containing the dangerous drugs she had recovered from the red coin purse along with the buy bust money. The red coin purse which accidentally fell from appellant's possession

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<sup>13</sup> *Id.* at 7-8.

<sup>14</sup> *Id.* at 8.

<sup>15</sup> *Id.* at 8-9.

<sup>16</sup> *CA rollo*, p. 46.

while her arrest was ongoing was the same one from which appellant retrieved the plastic sachet of *shabu* she earlier sold to SO2 Sogoc.<sup>17</sup>

Too, having been caught *in flagrante delicto*, appellant's identity as seller and possessor of the seized items could no longer be disputed. The recovery of the three (3) other plastic sachets from her was likewise deemed valid. These were recovered during a valid arrest after the sale got consummated.<sup>18</sup>

The trial court also held that the chain of custody remained intact, thus, giving credence to the testimonies of the prosecution witnesses. There was also no showing of any ill-motive, instigation or irregularity on the part of the arresting officers who did the buy-bust operation.<sup>19</sup>

### **The Proceedings before the Court of Appeals**

Appellant faulted the trial court for rendering the verdict of conviction despite the alleged inconsistencies in the testimonies of the prosecution witnesses and the supposed breaches in the chain of custody.<sup>20</sup>

On the other hand, the Office of the Solicitor General (OSG) riposted that the trial court correctly ruled that the prosecution's version of facts was more credible than appellant's theory of denial, frame up and extortion. The PDEA agents enjoyed the presumption of regularity in the performance of their duty, hence, their testimonies were considered credible. Minor inconsistencies did not diminish but even enhanced their credibility. Appellant's defenses of denial, frame-up, and extortion could easily be concocted, thus, they deserved scant consideration. The prosecution sufficiently established compliance with the chain of custody.<sup>21</sup>

### **The Court of Appeals' Ruling**

By Decision dated January 22, 2016,<sup>22</sup> the Court of Appeals affirmed with modification, thus:

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<sup>17</sup> *Id.* at 44-45.

<sup>18</sup> *Id.* at 45.

<sup>19</sup> *Id.* at 45-46.

<sup>20</sup> *Id.* at 19-30.

<sup>21</sup> *Id.* at 112-132.

<sup>22</sup> Penned by Associate Justice Mario V. Lopez and concurred in by Associate Justice Rosmari D. Carandang (now a member of this Court) and Associate Justice Myra V. Garcia-Fernandez; *rollo*, pp. 2-14.

WHEREFORE, the January 20, 2014 Decision of the Regional Trial Court of Caloocan City, Branch 120, is AFFIRMED with MODIFICATION so that the penalty imposed in Criminal Case No. C-83743 is imprisonment of twenty (20) years and one (1) day and a fine of ₱400,000.00.

SO ORDERED.<sup>23</sup>

The Court of Appeals ruled that the alleged conflict in the testimony of SO2 Garduque was more imagined than real. Although she stated that it was the informant who initiated the transaction, tipped them on the street price of “*shabu*,” and was then present when the transaction got consummated, it was in fact SO2 Garduque herself who spoke to appellant through the informant’s phone, negotiated with appellant on the price and quantity of drugs to be purchased, and the time and place for the exchange of drugs and payment. In fine, there was no credence in the defense’s argument that SO2 Garduque acted only as delivery man and not as poseur buyer.<sup>24</sup>

On the chain of custody, SO2 Garduque testified that while appellant’s arrest was being effected, she marked the plastic sachet she bought from appellant and marked the three other plastic sachets she subsequently found inside appellant’s purse. The buy-bust team brought these items to the PDEA Headquarters where *Kagawad* Jose Ruiz, Jr. signed the inventory. Photographs of the items were taken. Thereafter, she prepared a request for a laboratory examination of the seized items in writing and delivered the request and the items themselves to the crime laboratory. Forensic Chemist Shaila Seville received the items and did a qualitative examination on them, the result of which yielded positive for *methamphetamine hydrochloride*. She then sealed the seized items in a brown envelope and kept them in her custody until they were presented in court.<sup>25</sup>

Appellant’s defenses of frame-up and extortion deserved scant consideration. These defenses may not prosper in the absence of present, clear, and convincing evidence to overcome the presumption of regularity in the performance of the arresting officers’ official duties.<sup>26</sup>

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<sup>23</sup> *Rollo*, pp. 13-14.

<sup>24</sup> *Id.* at 10.

<sup>25</sup> *Id.* at 10-11.

<sup>26</sup> *Id.* at 11-12.

Lastly, at the time appellant got apprehended, she was actually in possession of three plastic sachets of *shabu* without any legal authority.<sup>27</sup>

### The Present Appeal

Appellant now asks the Court to reverse the assailed Court of Appeals' disposition and prays anew for her acquittal.

She faults the Court of Appeals for affirming her conviction despite the fact that the informant had sole knowledge of how the alleged illegal sale commenced and got completed; the testimony of SO2 Garduque is hearsay and possesses no probative value. For the prosecution's failure to present the informant in court, appellant asserts that her constitutional right to confront the witnesses against her, face to face, was violated.<sup>28</sup> Too, she faults the Court of Appeals for admitting in evidence the seized items despite non-compliance with the requirements laid down under Section 21 of RA 9165.<sup>29</sup>

In refutation, the OSG essentially reiterates its arguments before the trial court.<sup>30</sup>

### Threshold Issue

Did the arresting police officers comply with the chain of custody rule?

### Ruling

The dangerous drugs purportedly seized from appellant and sold to SO2 Garduque constitute the *corpus delicti* here. As the prosecution bears the burden of proving the elements of the offense and the *corpus delicti* itself, it must establish the identity and integrity of the dangerous drugs in order to support a verdict of conviction.<sup>31</sup> It must prove that the items seized from appellant are truly the same ones being offered in court as *corpus delicti*. This it must show with the same unshakeable accuracy as that required to sustain a finding of guilt.

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 41-47.

<sup>29</sup> *Id.* at 42-52.

<sup>30</sup> *Id.* at 24-25.

<sup>31</sup> *Calahi v. People*, G.R. No. 195043, November 20, 2017, 845 SCRA 12, 20, citing *People v. Casacop*, 778 Phil. 369, 376 (2016) and *Zafra v. People*, 686 Phil. 1095, 1105-1106 (2012).



Here, the Information alleged that the offense was committed on March 24, 2010. The governing law, therefore, is RA 9165. Section 21 of the law provides:

- (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.

x x x                      x x x                      x x x

Section 21 of the Implementing Rules and Regulations of RA 9165 complements the foregoing provision, *viz*:

(a) The apprehending officer/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: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items;

x x x                      x x x                      x x x

These provisions contain the duly recorded authorized movements and custody of seized drugs, controlled chemicals, plant sources of dangerous drugs or laboratory equipment at each stage:

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from the time of seizure/confiscation to their receipt in the forensic laboratory, to safekeeping and presentation in court for identification and destruction. This record includes the identity and signature of the persons who had temporary custody of the seized items each step of the way, the date and time of transfer of custody in the course of their safekeeping and use in court as evidence, and their final disposition.<sup>32</sup>

*Largo v. People*<sup>33</sup> reiterated the need to establish the following four (4) links in the chain of custody:

**First**, the seizure and marking, if practicable, of the dangerous drug recovered from the accused by the apprehending officer;

**Second**, the turnover of the dangerous drug seized by the apprehending officer to the investigating officer;

**Third**, the turnover by the investigating officer of the dangerous drug to the forensic chemist for laboratory examination; and

**Fourth**, the turnover and submission of the marked dangerous drug seized from the forensic chemist to the court.

We discuss the first, second and fourth links.

The first link includes the marking, physical inventory, and photograph of the seized items done in the presence of the accused, an elective official, and representatives from the DOJ and the media, respectively.

“Marking” refers to the activity by which the initials and signature of the arresting officer are affixed to the seized items. The marking of the evidence serves to separate it from the *corpus* of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, thus, preventing switching, planting or contamination of evidence.<sup>34</sup>

Here, SO2 Garduque’s testimony showed that while the marking of the seized items was done at the place of the arrest, appellant and the other required witnesses were not present when such marking was done, thus:

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<sup>32</sup> *Largo v. People*, G.R. No. 201293, June 19, 2019.

<sup>33</sup> G.R. No. 201293, June 19, 2019.

<sup>34</sup> *People v. Patricio*, G.R. No. 202129, July 23, 2018.

Q: So, after placing in your bag the white envelope containing the money, the plastic sachet which was given to you and the red coin purse which fell down from the hand of the person who gave you the plastic sachet and which you picked up and put in your bag, what did you do next?

A: I marked the evidence right there in the area, ma'am.

Q: You said you placed the markings, in what place was that?

A: In the area, ma'am.<sup>35</sup>

X X X            X X X            X X X

Q: You said IO2 Pacquing effected the arrest of the accused, where was the accused when you were placing those markings, if you know? A: I do not know where she was, ma'am.<sup>36</sup>

X X X            X X X            X X X

Q: What happened after that?

A: Our team leader decided to return to our office, ma'am.<sup>37</sup>

The Court has repeatedly held that the required witnesses *i.e.* a representative from the media and the Department of Justice (DOJ), and any elected public official must be present not only during the marking, inventory and photograph but even at the time of arrest. *People v. Escara*<sup>38</sup> is apropos:

It bears emphasis that the presence of the required witnesses at the time of the apprehension and inventory is mandatory, and that the law imposes the said requirement because their presence serves an essential purpose. In *People v. Tomawis*, the Court elucidated on the purpose of the law in mandating the presence of the required witnesses as follows:

The presence of the witnesses from the DOJ, media, and from public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug. Using the language of the Court in *People v. Mendoza*, without the *insulating presence* of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drugs, the evils of switching, "planting" or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the subject sachet that was evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.

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<sup>35</sup> TSN, September 16, 2010, p. 17.

<sup>36</sup> *Id.* at 21.

<sup>37</sup> *Id.*

<sup>38</sup> G.R. No. 212170, June 19, 2019.

The presence of the three witnesses must be secured not only during the inventory but more importantly **at the time of the warrantless arrest**. It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses would also controvert the usual defense of frame-up as the witnesses would be able to testify that the buy bust operation and inventory of the seized drugs were done in their presence in accordance with Section 21 of RA 9165.

**The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so; and "calling them in" to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.**

To restate, **the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of 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".**

(Emphases supplied)

Here, not one person witnessed the marking of the seized items. Hence, the source, identity, and integrity of these items remained questionable.

The first link also includes compliance with the physical inventory and photograph of the seized dangerous drug. This act is done before the dangerous drug is sent to the crime laboratory for testing.

SO2 Garduque testified that their team was ordered by SO2 Sogoc to return to their headquarters in Pinyahan, Quezon City after the buy-bust operation. There, SO2 Garduque did the required inventory and photograph in the presence of *Barangay Kagawad* Jose Ruiz, Jr. only, thus:

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Q: Did you go back?

A: Yes, ma'am.

Q: In what office?

A: PDEA Headquarters, ma'am.<sup>39</sup>

X X X            X X X            X X X

Q: What else did you do when you went back to your office in connection with these cases?

A: I conducted the inventory on the same table where I was sitting inside our office, ma'am.<sup>40</sup>

X X X            X X X            X X X

Q: After that, was there anything else done in connection with these cases?

A: The photographing of the evidence, Ma'am.

Q: Who took the pictures?

A: I cannot remember, Ma'am.<sup>41</sup>

X X X            X X X            X X X

Q: On the second bond paper are three (3) pictures, will you please take a look at this and tell this Honorable Court what does this attached first picture show?

A: The Barangay Kagawad while signing the inventory report, ma'am.

Q: Do you know who is this Barangay Kagawad?

A: Kagawad Ruiz of Barangay Pinyahan, Ma'am.

Q: The second picture on this second bond paper, what is being depicted here?

A: The same, the Barangay Kagawad and me, Ma'am.

Q: How about on this third picture?

A: Me, Barangay Kagawad Ruiz, the arresting officer and the accused, Ma'am.<sup>42</sup>

Indeed, there is nothing on record showing that the requisite inventory and photograph were witnessed by a representative of the DOJ and the media; the evidence offered by the prosecution did not bear them. The absence of these requirements or the inability of the arresting officers to comply therewith was never explained by the prosecution.

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<sup>39</sup> TSN, September 16, 2010, p. 22.

<sup>40</sup> TSN, February 10, 2010, p. 8.

<sup>41</sup> *Id.* at 17.

<sup>42</sup> *Id.* at 18.

In *People v. Que*<sup>43</sup> the Court decreed that the absence of the required witnesses during the inventory and photograph militated against the guilt of the accused. Under these circumstances, the integrity and evidentiary value of the *corpus delicti* cannot be deemed to have been preserved.

In sum, the **first link** was incipiently broken not once but thrice in view of the failure of the arresting officers to comply with the required presence of appellant and the required witnesses during the marking, inventory and photograph of the seized items.

The **second link** refers to the turnover of the seized items from the apprehending officer to the investigating officer. Unfortunately, here, SO2 Garduque failed to identify the investigating officer who received the seized items from her at the police station, thus:

Q: Now, after the preparation of the inventory report, what else did you do?

A: We submitted the drugs or specimen to the crime laboratory, ma'am.

Q: How did you bring it there?

A: I brought the evidence with me to the crime laboratory considering that the same is just within the building, Ma'am.<sup>44</sup>

As for the **fourth link**, Forensic Chemist Seville's Chemistry Report No. PDEA-DD010-113 revealed that the seized items tested positive for *methamphetamine hydrochloride*. Forensic Chemist Seville, however, failed to testify on the manner she handled and stored the seized items post-examination until they were presented as evidence in court.<sup>45</sup>

*People v. Bermejo*<sup>46</sup> resulted in the acquittal of the accused in view of the absence of any testimony of the forensic chemist on how the latter handled the dangerous drugs submitted for laboratory examination, viz:

PSI Cordero testified that the specimen was turned over by the crime laboratory of Calapan City to the provincial crime laboratory in Tiniguiban, Puerto Princesa City and received by their evidence custodian. Regrettably, no specific details were given as to who turned over the specimen, who is the evidence custodian in Tiniguiban, Puerto Princesa City who received the

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<sup>43</sup> G.R. No. 212994, January 31, 2018.

<sup>44</sup> TSN, February 10, 2010, p. 10.

<sup>45</sup> *Rollo*, p. 10.

<sup>46</sup> G.R. No. 199813, June 26, 2019.

same, and how the specimen was handled while in the custody of these persons. Clearly, these are glaring gaps in the chain of custody that seriously taints the integrity of the *corpus delicti*.

In fine, the final link, just like the first and second links, had also been breached.

Surely, these lapses in the chain of custody rule cast serious doubt on the identity and the integrity of the *corpus delicti*. The metaphorical chain did not link at all, albeit it unjustly deprived appellant of his right to liberty. *Mallilin v. People*<sup>47</sup> ordained:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.

In another vein, the Implementing Rules and Regulations of RA 9165 bears a saving clause allowing leniency whenever compelling reasons exist that would otherwise warrant deviation from the established protocol, so long as the integrity and evidentiary value of the seized items are properly preserved.<sup>48</sup>

Here, the prosecution did not offer any explanation for the multiple lapses in the chain of custody rule. For this reason, the proviso "so long as the integrity and the evidentiary value of the seized items are properly preserved" does not come into play.

The presumption of regularity in the performance of official duty arises only when the records do not indicate any irregularity or flaw in the performance of official duty. Applied to dangerous drugs cases, the prosecution cannot rely on the presumption when there is a clear showing that the apprehending officers unjustifiably failed to comply with the requirements laid down in Section 21 of RA 9165

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<sup>47</sup> 576 Phil. 576, 587 (2008).

<sup>48</sup> See Section 21 (a), Article II of the IRR of RA 9165.

and its Implementing Rules and Regulations. In any case, the presumption of regularity cannot be stronger than the presumption of innocence in favor of the accused.<sup>49</sup>

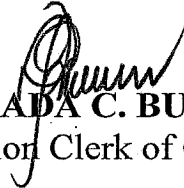
Taken together, lapses in the procedure laid out in Section 21 of RA 9165 and its Implementing Rules and Regulations, including the suspicious handling of the seized items here, have impeached their integrity and evidentiary value. It must be proven to a moral certainty that the dangerous drugs presented before the trial court, as the *corpus delicti* of the offense charged, were the same items seized from appellant during the buy-bust operation. Since the prosecution miserably failed to discharge this burden, appellant is entitled to a verdict of acquittal on ground of reasonable doubt.

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated January 22, 2016 of the Court of Appeals in CA-G.R. CR HC No. 06732 is **REVERSED** and **SET ASIDE**.

**Winnie Villareal y Cruz** is **ACQUITTED** of violation of Sections 5 and 11, Article II of Republic Act 9165. The Court **DIRECTS** the Superintendent of the Correctional Institution for Women, Mandaluyong City to: (a) cause the immediate release of Winnie Villareal y Cruz from custody unless she is being held for some other lawful cause or causes; and (b) submit his report on the action taken within five (5) days from notice. Let entry of judgment be immediately issued.

**SO ORDERED.**” *Caguioa, J., on official leave; Inting, J., designated as Additional Member per S.O. No. 2726 dated October 25, 2019.*

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court

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- over -

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<sup>49</sup> Supra, Note 46.





The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 06732)

The Hon. Presiding Judge  
Regional Trial Court, Branch 120  
1400 Caloocan City  
(Crim. Case Nos. C-83742 [10]  
& C-83743 [10])

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Accused-Appellant  
c/o The Superintendent  
Correctional Institution for Women  
1550 Mandaluyong City

The Superintendent (x)  
Correctional Institution for Women  
1550 Mandaluyong City

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