

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. 234325 – (PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, vs. ARMANDO PERATER, JR. y CLARO, Accused-Appellant.)

The Case

Appellant Armando Perater, Jr. y Claro assails the Court of Appeals’ Decision¹ dated May 25, 2017, affirming his conviction for violation of Sections 5 and 11, Article II of Republic Act No. 9165 (RA 9165).

The Proceedings before the Trial Court

Appellant was charged with violation of Sections 5 and 11, Article II of RA 9165,² viz:

¹ Penned by Associate Justice Gabriel T. Ingles concurred in by Associate Justices Marilyn B. Lagura-Yap and Geraldine C. Fiel-Macaraig, all members of the Special Eighteenth Division, *Rollo*, pp. 4-17.

² Comprehensive Dangerous Drugs Acts of 2002.

Section 5, Article II states: 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. xxx

Section 11, Article II states: *Possession of Dangerous Drugs*. - 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 possess any dangerous drug xxx

Criminal Case No. 2010-19799:

That on or about the 23rd day of November, 2009, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and feloniously sell and deliver to a poseur-buyer one (1) heat sealed transparent plastic sachet containing 0.01 gram of Methamphetamine Hydrochloride, commonly called "shabu," a dangerous drug.

Contrary to Section 5, Article II of R.A. 9165.³

Criminal Case No. 2010-19800:

That on or about the 23rd day of November, 2009, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and feloniously keep and possess one (1) heat sealed transparent plastic sachet containing 0.01 gram of Methamphetamine Hydrochloride, commonly called "shabu," a dangerous drug.

Contrary to Section 11, Article II of R.A. 9165.⁴

On arraignment, appellant pleaded not guilty.⁵ Trial ensued.

Prosecution's Version:

Police Officer 3 (PO3) Mark Jester Ayunting, PO3 Ramon Bernard Pedeglorio, and PO2 Glenn Corsame, of the Intelligence

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

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- (3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

³ Record, p. 154.

⁴ Id.

⁵ CA Rollo, p. 9.

Section – Camp Francisco C. Fernandez, Jr., Negros Oriental Police Provincial Office (NOPPO), Forensic Chemist Josephine Llana, media representative Neil Rio, and Barangay Kagawad Ronnie Pasunting of Barangay Calindagan, Dumaguete City testified for the prosecution. Their testimonies may be summarized as follows:

On November 19, 2009, the confidential informant reported to PO3 Ayunting and PO3 Pedeglorio that appellant Armando Perater Jr. was selling *shabu* at Purok Mutya, Canday-ong, Calindagan, Dumaguete City. PO3 Ayunting and PO3 Pedeglorio conducted a surveillance on appellant and found that he was indeed peddling drugs in the area. The police officers returned to their office and reported their observations to Police Chief Inspector (PCI) Alvin Futralan. The latter organized a buy-bust operation against appellant.⁶ PO3 Pedeglorio got assigned as the poseur buyer while PO3 Ayunting as immediate back up. PO3 Pedeglorio prepared the buy-bust money consisting of three (3) genuine one hundred peso (₱100.00) bills marked with his signature on the face of each bills.⁷ They agreed on the prearranged signal: either PO3 Ayunting or PO3 Pedeglorio will call one of the members of the team.⁸

Around 4 o'clock in the afternoon, the buy-bust team proceeded to Purok Mutya, Canday-ong, Calindagan, Dumaguete City. Appellant immediately approached PO3 Pedeglorio and asked "*pila imoka bay?*" (how much is yours?) to which the latter replied "*tres.*" PO3 Pedeglorio gave appellant the buy-bust money and the latter in turn, pulled out two (2) plastic sachets from his left pocket. He handed one (1) sachet to PO3 Pedeglorio. After examining the contents of the plastic sachet, PO3 Pedeglorio introduced himself as a police officer, arrested appellant, informed him of his constitutional rights, and confiscated another sachet of *shabu* from appellant's hand.⁹

Gemracel Perater, appellant's brother, grabbed appellant's hands from PO3 Ayunting and PO3 Pedeglorio's hold, while some bystanders on the area threw stones at the police officers. As a result, appellant was able to run. PO3 Ayunting and PO3 Pedeglorio chased appellant but they failed to apprehend him as he hid inside a house in the area.¹⁰

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Record, p. 8.

At the *situs criminis*, PO3 Pedeglorio sealed the two (2) sachets of shabu¹¹ with a masking tape and marked it with "AP-BB" (sachet bought from appellant) and "AP-P" (sachet possessed by appellant).¹²

The buy-bust team went to Philippine Drug Enforcement Agency (PDEA), Dumaguete City Police station¹³ where SPO1 Allen June Germodo prepared the inventory.¹⁴ SPO1 Marie Germodo signed the inventory receipt in the presence of Department of Justice (DOJ) representative Ramonio Astillero, media representative Neil Rio, and Barangay Kagawad Ronnie Pasunting of Barangay Calindagan, Dumaguete City.¹⁵ PO2 Glenn Corsame took photographs of the seized items.

After PCI Futalan prepared a Request for Laboratory Examination,¹⁶ PO3 Pedeglorio brought the seized items and request for examination to the Philippine National Police (PNP) Negros Oriental Crime Laboratory Office.

On November 23, 2009, Forensic Chemist Josephine Llana received the request and specimens from PO3 Pedeglorio and conducted a qualitative examination thereon. Per Report No. D-096-09, the specimens, weighed 0.01 gram each and were found positive for methamphetamine hydrochloride, a dangerous drug.¹⁷ After examination, Forensic Chemist Llana kept the specimens in the evidence room where she was the only one who can access it. She only retrieved the specimens before she went to the court.¹⁸

Appellant was eventually captured on January 7, 2015.¹⁹

The prosecution submitted the following evidence: 1) Joint Affidavit of Arrest;²⁰ 2) Request for Laboratory Examination;²¹ 3) Chemistry Report No. D-096-09;²² 3) Receipt by Regional Trial Court (RTC) – Dumaguete City, Branch 30 of the specimens and Chemistry Report;²³ 4) Inventory of the seized items;²⁴ 5) Photographs of the

¹¹ CA Rollo, p. 9.

¹² *Id.* at 10.

¹³ *Id.*

¹⁴ Record, p. 4.

¹⁵ CA Rollo, p. 10.

¹⁶ Record, p. 1.

¹⁷ *Id.* at 2.

¹⁸ *Id.* at 11.

¹⁹ Rollo, p. 6.

²⁰ Record, pp. 6-7.

²¹ *Id.* at 1.

²² *Id.* at 2.

²³ *Id.* at 3.

²⁴ *Id.* at 4.

seized items;²⁵ 6) Photocopy of the PDEA Blotter; and 7) Photocopy of the buy-bust money consisting of three (3) one hundred peso bills with serial numbers UC718558, UD008834, and SK909485.²⁶

Defense's Version:

Appellant denied he was engaged in illegal drug activities. On November 23, 2009, he was at home making candles for his wife to sell and he was surprised when the police officers arrested him on January 7, 2015.²⁷

The Trial Court's Ruling

By Joint Judgment²⁸ dated August 12, 2015, the trial court found appellant guilty as charged, *viz*:

WHEREFORE, in light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 2010-19799, the accused, ARMANDO PERATER JR. y CLARO is hereby found guilty beyond reasonable doubt of the offense of illegal sale of 0.01 gram of *shabu* in violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The one (1) heat sealed transparent plastic sachet with marking "AP-BB" containing 0.01 gram of *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 2010-19800, the accused ARMANDO PERATER JR. y CLARO is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 0.01 gram of *shabu* in violation of Section 11, Article II of RA No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The one (1) heat-sealed transparent plastic sachet with markings "AP-P" containing also 0.01 gram of *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

²⁵ *Id.* at 5.

²⁶ *Id.* at 10.

²⁷ TSN, pp. 3-4, July 20, 2015.

²⁸ Penned by Judge Rafael Crescencio C. Tan, Jr., CA *Rollo*, pp. 8-19.

In the service of sentence, the accused ARMANDO PERATER JR. y CLARO shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.

The trial court found that all the elements of illegal sale and illegal possession of drugs were present here; the testimony of material witness PO3 Pedeglorio was corroborated by physical evidence on record as contained in the Chemistry Report No. D-096-09 issued by Forensic Chemist Llena;²⁹ the integrity and evidentiary value of the seized items had been duly preserved from the time it was seized until it was presented in court;³⁰ appellant's flight from the crime scene indicated his guilt;³¹ and, appellant's denial cannot prevail over the consistent and credible testimony of the prosecution witnesses.³²

The Proceedings before the Court of Appeals

On appeal, appellant questioned the integrity and evidentiary value of the *corpus delicti* because SPO1 Allen June Germodo who prepared the inventory was not the one who signed the inventory receipt.³³ More, when PO3 Pedeglorio turned over the seized items to Forensic Chemist Llena, the same were not placed in a safe container.³⁴ It was Forensic Chemist Llena who provided a brown envelope where the seized items were placed but the same was neither marked nor sealed.³⁵

For its part, the Office of the Solicitor General (OSG) through Assistant Solicitor General Vida G. San Vicente and Senior State Solicitor Fenicar A. Tabao countered in the main: 1) all elements of illegal sale and illegal possession of dangerous drugs were proven;³⁶ 2) the chain of custody was substantially followed, thus, the integrity and evidentiary value of the seized item was duly preserved;³⁷ and 3) the presumption of regularity in the performance of official functions of the police officers prevails over appellant's denial.³⁸

²⁹ CA Rollo, p. 15.

³⁰ *Id.* at 16.

³¹ *Id.* at 17.

³² *Id.* at 17-18.

³³ *Id.* at 49.

³⁴ *Id.* at 45.

³⁵ *Id.*

³⁶ *Id.* at 91-93.

³⁷ *Id.* at 89-90.

³⁸ *Id.* at 90.

The Court of Appeals' Ruling

By Decision³⁹ dated May 25, 2017, the Court of Appeals affirmed. It ruled that the prosecution sufficiently established that there was a consummated sale of dangerous drugs in view of the exchange of illegal drugs and buy-bust money between appellant and PO3 Pedeglorio.⁴⁰

Also, during appellant's arrest, another plastic sachet containing shabu was found in his possession. This was sufficient to convict appellant of illegal possession of dangerous drugs.⁴¹

The Court of Appeals likewise found that the integrity of the *corpus delicti* was duly preserved.⁴²

The Present Appeal

Appellant now seeks affirmative relief from the Court and pleads anew for a verdict of acquittal.

In compliance with Resolution⁴³ dated January 8, 2018, both appellant and the People manifested that in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.⁴⁴

Issue

Did the Court of Appeals err when it affirmed appellant's conviction for violation of Sections 5 and 11, Article II of RA 9165?

Ruling

In cases of illegal sale and illegal possession of dangerous drugs, the *corpus delicti* of the offense. The integrity and identity of the seized drugs must be shown to have been duly preserved from the moment it was confiscated until presented in court.⁴⁵

³⁹ Penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Marilyn B. Lagura-Yap and Geraldine C. Fiel-Macaraig, *Rollo*, pp. 4-17.

⁴⁰ *Rollo*, p. 12.

⁴¹ *Id.* at 13.

⁴² *Id.* at 16.

⁴³ *Id.* at 22-23.

⁴⁴ Appellee's Manifestation - *Rollo*, pp. 24-26; Appellant's Manifestation - *Rollo*, pp. 29-30.

⁴⁵ See *Fajardo v. People*, 691 Phil. 752, 758-759 (2012) citing *People v. Gutierrez*, 614 Phil. 285, 293 (2009).

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody:⁴⁶ *first*, the seizure and marking 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 by the forensic chemist to the court.⁴⁷

Section 21 of RA 9165 prescribes the standard in preserving the *corpus delicti* in illegal drug cases, viz:

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;

⁴⁶ As defined in Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002:
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b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.] xxx

⁴⁷ *People v. Dahil*, 750 Phil. 212, 231 (2015).

(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 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;

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The Implementing Rules and Regulations of RA 9165 further commands:

Section 21. (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.

Here, the prosecution failed to establish an unbroken chain of custody.

First, the inventory was not done immediately at the place of arrest. PO3 Peglorio and PO3 Ayunting testified:

PO3 Peglorio:

Q: So after marking the subject sachets of shabu in Purok Mutya, Candayong Calindangan, Dumaguete City, what did you do next PO3 Peglorio?
A: We proceeded to our office, sir, for the conduct of the inventory, sir.

Q: When you say office, again, this is in Agan-an?

A: **No, sir. At the back of police station, sir.**

Q: So at the time you were already holding office, also a sub-office at the back of the police station of Dumaguete?

A: **Yes, sir. That was the office also of the PDEA, sir, since we were also depu(ties) of the PDEA.**

Q: Okay, so you shared their office also?

A: Yes, sir.

Q: So were you able to conduct the inventory of the items which you seized from the accused?

A: Yes, sir.

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Q: Who prepared the prepared the inventory of the property seized?

A: **It was SPO1 Germodo, sir, who wrote the inventory.**

Q: But did you sign in the said inventory?

A: Yes, sir.

Q: How about the PDEA, in 2009, what was the participation of PDEA during your operation?

A: **There was another representative from PDEA, sir.**

Q: So what was her role and when did she participate in the operation?

A: **The one representing for the PDEA, sir, was Germodo, the wife of...**

Q: Allen June?

A: **But she did not participate in the actual operation, sir.**

Q: So what did she do in relation to this case?

A: **She signed in the inventory receipt, sir.**

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Q: **So from the confiscation in Purok Mutya to the markings until to the actual conduct of the inventory, you were in sole possession of the two (2) sachets of shabu subject of these cases?**

A: **Yes, sir.**⁴⁸ (Emphasis supplied)

PO3 Ayunting:

Q: Then you mentioned that you went back to your office?

A: Yes, sir.

Q: So what did you do in your office?

A: We inventoried, sir, the items, sir, that we recovered from the operation, sir.

⁴⁸ TSN, pp. 14-16, June 23, 2015.

Q: Are you familiar with the actual conduct of the inventory in this case?

A: Yes, sir.

Q: Why?

A: I was there, sir, during the inventory, sir.

Q: Are you one of the signatories of this?

A: No, sir.

Q: How about, who actually entered the details in the inventory of the property seized?

A: I could not recall, maybe it was Pedeglorio or Germondo, sir.⁴⁹

Article II, Section 21(a) of the IRR allows the inventory to be done at the nearest police station or at the nearest office of the apprehending team from the place of arrest or seizure, whichever is practicable, in case of warrantless seizures. Here, the inventory and taking of photograph of the seized items were done at the PDEA Office, Dumaguete City, Negros Oriental. The prosecution, however, did not provide sufficient proof that the PDEA Office, Dumaguete PNP station was the nearest office from the place where the drugs were seized. Notably, the address indicated in the Inventory Receipt was not even PDEA Office, Dumaguete, but PNP Camp Francisco C. Fernandez Jr., Agan-an, Sibulan.⁵⁰ This inconsistency casts doubt where the seized items were indeed inventoried.

In *People v. Dahil*,⁵¹ the inventory of the seized drugs from a buy-bust operation was not done immediately after seizure at the place of arrest, rather, it was only done at the PDEA Office, Region 3. In that case, the prosecution likewise failed to show that PDEA Office Region 3 was the nearest police station from the place of seizure. The Court considered this a break in the chain of custody.

Second, who had custody of the seized drugs *en route* to the police station? Why did SPO1 Marie Germondo sign the Inventory Receipt, instead of SPO1 Allen Germondo who actually prepared it? How did the seized drug reach Forensic Chemist Llana?

While PO3 Pedeglorio testified that he was in custody of the seized items during inventory, it was SPO1 Allen Germondo who actually prepared the inventory. Records did not reveal, however, how

⁴⁹ TSN, pp. 18-19, June 24, 2015.

⁵⁰ Record, p. 4.

⁵¹ See 750 Phil. 212, 221 (2015).

and when the seized items were transferred from PO3 Pedeglorio to SPO1 Allen Germondo. PO3 Ayunting claimed that he was present during the inventory but could not recall whether it was PO3 Pedeglorio or SPO1 Allen Germondo who inventoried the seized items.

Another, records show that although it was SPO1 Allen Germondo who prepared the inventory of the seized items, it was his wife, SPO1 Marie Germondo who signed the inventory receipt.

Clearly, the case of the prosecution is forcing the Court to resort to guesswork as to the observance of first and second links in the chain of custody rule, i.e.: 1) did inventory actually take place; 2) did PO3 Pedeglorio give the seized drugs to SPO1 Allen Germondo; and 3) did PO3 Pedeglorio had custody of the shabu while SPO1 Allen Germondo was conducting his inventory?

In *People v. Miranda*,⁵² the Court ruled that the inexcusable failure to observe the requirements regarding the physical inventory raises doubts whether the illegal drugs were the same ones allegedly seized from appellants. Since there was no clear showing whether the integrity and evidentiary value of the seized items were duly preserved, accused therein were acquitted.

On another point. SPO1 Germondo did not testify in court surrounding the circumstances of the inventory. This creates another gap in the chain of custody. *Mallillin v. People*⁵³ is apropos, thus:

XXX every person who touched the seized items (should) sufficiently 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 from one link to the next.
(Emphasis and underscoring supplied)

Third, PO3 Pedeglorio testified that he turned over the seized items to Forensic Chemist Llena, thus:

Q: So after the inventory, PO3 Pedeglorio, what did you do next with the two (2) sachets of shabu subject of these cases?

A: I delivered it to the crime laboratory, sir, for laboratory examination.

⁵² See 788 Phil. 657, 667-668 (2008).

⁵³ See 576 Phil. 576, 587 (2008).

Q: So if you can recall, who received it in behalf of the PNP Crime Laboratory?

A: It was Police Chief Inspector Josephine Llana, sir.

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Q: And can you recall if you put it another container before actually submitting it to PCI Llana?

A: No, sir.

Q: It was not yet practice at that time that you will put it in an evidence envelope?

A: I cannot recall, sir xxx

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Q: And then did you sign it, the markings that you put in the shabu?

A: I did not sign it, sir.

Q: And no dates also were placed?

A: No, sir.⁵⁴ (Emphasis supplied)

PCI Llana testified that she was the one who received two (2) sachets containing white crystalline substance from PO3 Pedeglorio, viz:

Q: Okay, and can you tell us from whom did you receive this letter of request and the subject drugs?

A: From PO(3) Ramon Bernard Pedeglorio, sir.

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Q: We have here a brown envelope containing the subject specimens of these cases marked as Exhibit "D," xxx from whom did you receive this?

A: I was the one who provided this brown envelope, sir.

Q: What's the reason?

A: They only submitted to me two (2) plastic sachets without any envelope so I was the one who provided this envelope for safety.

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⁵⁴ TSN, pp. 17-18, June 23, 2015.

Q: xxx you did not sign anywhere on this brown envelope outside?

A: I did not make any signature or markings sir. xxx

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Q: xxx before you turned this over to the Honorable Court, where did you place this items?

A: They were kept in our evidence room, sir.

Q: And who has access to this evidence room that you mentioned?

A: I am the only one who has access to it.⁵⁵ (Emphasis supplied)

There was nothing in PO3 Pedeglorio's testimony which shows how the seized items were properly sealed, stored, or whether his mark as the seizing officer remained intact. In fact, it was Forensic Chemist Llena who provided the brown envelope for the safekeeping of the seized items because what was given to her were bare two (2) plastic sachets. These facts raise even more doubt on the preservation of the identity of the seized items.

In *People v. Beran*,⁵⁶ the arresting officer failed to explain how he preserved the exclusive custody of the seized items until he turned over the same to the forensic chemist. The Court ruled that the integrity and evidentiary value of the seized item had been fatally compromised, warranting the accused's acquittal.

Fourth, the last link involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence.⁵⁷ Here, Forensic Chemist Llena did not offer any explanation what happened to the illegal drugs upon her receipt, after her qualitative examination thereon, and prior to his appearance in court. Indeed, no explanation was given regarding the custody of the seized drugs in the interim – from the moment the seized items were received for laboratory examination until it was presented in court.

In *People v. Gutierrez*,⁵⁸ the forensic chemist failed to testify on how the seized items were handled after the qualitative examination thereon yielded positive for methamphetamine hydrochloride. The Court ruled that this necessary detail imputes uncertainty on the integrity of the seized item presented in court as

⁵⁵ TSN, June 22, 2015, pp. 6-7.

⁵⁶ See G.R. No. 218947, June 20, 2018.

⁵⁷ See *People v. Dahil*, 750 Phil. 212, 237 (2015).

⁵⁸ See 614 Phil. 285, 295 (2009).

evidence. In *People v. Gayoso*,⁵⁹ the forensic chemist failed to assert that the seized items for laboratory examination which tested positive for shabu were the same substance allegedly recovered from appellant. The Court held that the prosecution's failure to offer a testimony which would establish a substantially complete chain of custody diminishes a successful chance of prosecuting a drug case.

Verily, the prosecution witnesses here failed to describe the precautions taken to ensure that there had been no change in the condition of the items and no opportunity for someone not in the chain to have possession of the same. The prosecution cannot apply the saving mechanism of Section 21 of the IRR of RA No. 9165 because it miserably failed to prove that the integrity and the evidentiary value of the seized items were preserved. The four links required to establish the proper chain of custody were breached with irregularity and lapses.

Suffice it to state that the presumption of regularity in the performance of official functions⁶⁰ cannot substitute for compliance and mend the broken links. Here, the presumption was amply overturned by compelling evidence of the multiple breaches of the chain of custody rule.

Given the overwhelming procedural lapses which caused serious uncertainty in the identity and integrity of the seized dangerous drugs,⁶¹ a verdict of acquittal is in order.⁶²

WHEREFORE, the appeal is **GRANTED**. The Decision dated May 25, 2017 of the Court of Appeals in CA-G.R. CEB CR HC No. 01237 is **REVERSED** and **SET ASIDE**. Appellant Armando Perater, Jr. y Claro is **ACQUITTED** in Criminal Case Nos. 2010-19799 and 2010-19800.

The Court **DIRECTS** the Director of the Bureau of Corrections, Muntinlupa City to cause the immediate release from custody of Armando Perater Jr. y Claro, unless he is being held for some other lawful cause; and inform the Court of the action taken within five (5) days from notice.

Let an entry of final judgment be issued immediately.

⁵⁹ See *People v. Gayoso*, 808 Phil. 19, 33 (2017).

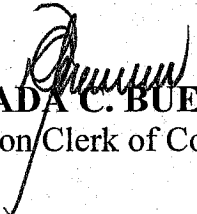
⁶⁰ Section 3(m), Rule 131, Rules of Court.

⁶¹ See *People v. Garcia*, 599 Phil. 416, 426-427 (2009).

⁶² See *People v. Dahil*, 750 Phil. 212, 239 (2015).

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
66-A

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

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The Director General (x)
Bureau of Corrections
1770 Muntinlupa City

Court of Appeals
6000 Cebu City
(CA-G.R. CEB CR-HC No. 02137)

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The Presiding Judge
Regional Trial Court, Branch 30
6200 Dumaguete City
(Criminal Case Nos. 2010-19799 & 2010-19800)

Mr. Armando C. Perater, Jr. (x)
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

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