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**Republic of the Philippines
Supreme Court
Manila**

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

NOTICE

BY: Henry
TIME: 3:10 Pm

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **March 11, 2020**, which reads as follows:*

“G.R No. 243573 (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. RAUL R. SABANAL, accused-appellant). — In buy bust cases, failure of the law enforcement agencies to strictly comply with the strict requirements of the chain of custody rule will result in the acquittal of the accused.

This Court resolves an appeal of the Decision¹ of the Court of Appeals, which affirmed the conviction of Raul R. Sabanal (Sabanal) for sale of illegal drugs under Article II, Section 5² of Republic Act No. 9165.

In a July 4, 2011 Information, Sabanal was charged with violation of Article II, Section 5 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The Information reads:

That on or about the 1st day of July, 2011, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, RAUL RETES SABANAL, without authority of law and legal justification, did, then and there willfully, unlawfully and feloniously sell, deliver and give to a poseur buyer one (1) heat-sealed transparent plastic sachet containing white crystalline substance weighing 0.02 gram which substance after examination conducted on specimen was found positive to the test of Methamphetamine Hydrochloride, also known as “shabu”, a dangerous drug, in violation of Republic Act No. 9165.

¹ *Rollo*, pp. 4–13. The May 24, 2018 Decision was penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Edgardo L. Delos Santos (now an Associate Justice of this Court) and Louis P. Acosta of the Nineteenth Division, Court of Appeals, Cebu.

² Republic Act No. 9165, 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.

Contrary to Sec. 5, Article II of Republic Act No. 9165.³

Upon arraignment, Sabanal pleaded not guilty.⁴ Trial on the merits then ensued.

The prosecution presented as witnesses PO1 Ramsteadt Balbuena (PO1 Balbuena), PO1 Roderick Maquinta (PO1 Maquinta), Forensic Chemist PCI Josephine S. Llana (PCI Llana), Philippine Drug Enforcement Agency member SI2 Ivy Claire B. Oledan (SI2 Oledan), National Prosecution Service process server Anthony Chilius Benlot (Benlot), and media representative Reysan Elloren (Elloren).⁵

PO1 Balbuena testified that on July 1, 2011, at around 1:00 p.m., he received a phone call from Intelligence Officer Inspector Felicísimo R. Callet, Jr. (Inspector Callet) informing him of a tip that illegal drug trade was rampant in Zone 3, Barangay Looc, Dumaguete City, and that a Jennifer Cañaverál (Cañaverál) was involved. Inspector Callet then instructed PO1 Balbuena and PO2 Maquinta to verify the information.⁶

At about 1:20 p.m., PO1 Balbuena and PO2 Maquinta proceeded to Zone 3. From a distance, they observed that there were several drug peddlers in the area, including their target Cañaverál. Thus, they returned to the police station, and reported their findings to Inspector Callet, who, in turn, called briefing for the conduct of a buy-bust operation against Cañaverál.⁷

It was agreed that PO1 Balbuena would act as the poseur buyer while PO2 Maquinta would be his backup. It was also agreed that the pre-arranged signal would be a "missed call" from PO2 Maquinta to Inspector Callet. After the briefing, Inspector Callet gave PO1 Balbuena a ₱500.00 bill as marked money to be used in the transaction. The police also coordinated with Philippine Drug Enforcement Agency for the conduct of the operation.⁸

When the buy-bust team arrived at the target area, they started to look for Cañaverál. After some time, they met someone whom they later identified as Sabanal. They asked him if he knew where Cañaverál was, but in return, Sabanal asked if they wanted to buy shabu from him instead.⁹

³ CA *rollo*, p. 37.

⁴ *Id.*

⁵ *Id.* at 38.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

When PO1 Balbuena agreed to buy shabu, Sabanal told them that he has ₱500.00 worth. He then took a plastic sachet of suspected shabu from his pocket and showed it to PO1 Balbuena who then gave the ₱500.00 marked money to Sabanal. After PO1 Balbuena examined the plastic sachet and confirmed its contents, he placed the plastic sachet in his pocket, introduced himself as a police officer, held on to Sabanal's hand, and informed him that he was being arrested for selling shabu.¹⁰

Sabanal allegedly resisted and ran away, which prompted PO1 Balbuena to run after him. Sabanal, however, fell so PO1 Balbuena was able to catch up and hold on to him. PO2 Maquinta arrived and assisted him in searching Sabanal. They recovered the ₱500.00 marked money from Sabanal's right hand pocket, a cellular phone, and cash amounting to ₱2,900.00. Sabanal was then informed of his constitutional rights.¹¹

While the buy-bust team was preparing to conduct an inventory, PO1 Balbuena noticed that Sabanal looked pale before eventually losing consciousness. After PO1 Balbuena marked the plastic sachet with Sabanal's initials "RRS-BB-07/01/11," the buy bust team proceeded to the Negros Oriental Provincial Hospital and conducted the inventory there. While in the Emergency Room, PO1 Balbuena alleged that Sabanal regained consciousness but remained in bed as he was still weak.¹²

Media representative Elloren, National Prosecution Service process server Benlot, Barangay Kagawads Dandy Catada (Catada) and George Balongag (Balongag) arrived at the hospital to witness the inventory. PO2 Maquinta took photographs of the witnesses, and the witnesses signed the Certificate of Inventory. After the inventory, Sabanal and the seized items were brought to the Dumaguete Police Station. PO1 Balbuena submitted the evidence and the letter-request for examination of the plastic sachet to the crime laboratory.¹³ The items were received by officer-on-duty PO1 Rosalin Kilakiga (PO1 Kilakiga) at 9:30 p.m. At 8:00 a.m. the next day, Forensic Chemist PCI Llena received the plastic sachet from PO1 Kilakiga for testing. Upon examination, the contents of the plastic sachet tested positive for shabu, a dangerous drug.¹⁴

PO2 Maquinta substantially corroborated PO1 Balbuena's testimony.¹⁵ For her part, SI2 Oledan testified that the buy-bust conducted was in coordination with Philippine Drug Enforcement Agency.¹⁶

¹⁰ Id. at 38-39.

¹¹ Id. at 39.

¹² Id.

¹³ Id.

¹⁴ Id. at 40.

¹⁵ Id. at 39-40.

¹⁶ Id. at 40-41.

Benlot, the National Prosecution Service process server, testified that he had received a call from Inspector Callet at about 5:05 p.m. for him to witness the conduct of inventory. When Benlot arrived in Zone 3, he saw some police officers and an unconscious Sabanal lying on the ground. Benlot was told that the inventory could not proceed as Sabanal had to be brought to the hospital, and that they would call him when Sabanal recovered.¹⁷

Benlot went home, but by 7:00 p.m., Inspector Callet called him and requested his presence at the hospital where they were conducting the inventory. He proceeded to the hospital where signed the certificate of inventory in front of the buy-bust team along with Sabanal, a woman sitting beside him, and media representative Elloren.¹⁸

Elloren likewise testified that police officer Glenn Corsame had called him and requested his presence at the hospital to witness the conduct of inventory. When he arrived at the hospital, Elloren was informed that the person lying in bed was Sabanal. Elloren also testified that he signed the inventory.¹⁹

For its part, the defense presented Sabanal and his live-in partner, Jodil Estocado (Estocado).

Sabanal testified that on July 1, 2011, at about 4:00 p.m., he was outside his house feeding his chickens when he saw two (2) men chasing another man. The two (2) men later came back and approached Sabanal to ask where the person they were chasing was headed. When the two (2) persons saw a plastic sachet on the ground in front of Sabanal, they grabbed and searched him. They told Sabanal that the plastic sachet belonged to him and that he was the one who threw it on the ground. When Sabanal denied this, they struck him on the back with a hard metal, causing him to lose consciousness. When he regained consciousness, he was already at the hospital, together with his live-in partner.²⁰

Defense witness Estocado likewise testified that she was a resident of Zone 3 and that on the day in question, she saw, from a distance of 50 meters, some civilian persons who appeared to be conducting an anti-drug operation in the area. She then saw them chasing someone but was not able to see and identify who it was. She then heard a commotion at the back of her house and when she went there, she saw Sabanal unconscious on the

¹⁷ Id. at 41.

¹⁸ Id.

¹⁹ Id.

²⁰ Id. at 42.

ground. On cross-examination, however, Estocado testified that she first saw Sabanal being chased by two (2) persons.²¹

On May 3, 2016, the trial court rendered a Judgment²² finding Sabanal guilty beyond reasonable doubt of violating Article II, Section 5 of Republic Act No. 9165. The dispositive portion of the Judgment reads:

WHEREFORE, premises considered, the Court finds accused RAUL RETES SABANAL guilty beyond reasonable doubt of the offense of illegal selling of 0.02 gram of shabu, in violation of Section 5, Article II of the Comprehensive Dangerous Drugs Act of 2002, and the court hereby imposes upon him the penalty of LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

The dangerous drug inside the transparent plastic sachet is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In line with Section 5, Rule 114 of The 1985 Rules on Criminal Procedure, as amended, the City Jail Warden of the Dumaguete City District Jail is hereby directed to immediately transmit the living body of accused Raul Sabanal to the New Bilibid Prison at Muntinlupa City, Metro Manila, where he will remain to be detained. The said accused shall be given full credit for the period of his preventive detention, provided he shall have filed a written undertaking that he would follow all the legitimate rules and regulations imposed by the detention center.

SO ORDERED.²³

Sabanal appealed to the Court of Appeals, arguing that the alleged selling of drugs to strangers in broad daylight was absurd considering that drug peddling is “a nefarious business which is carried on with utmost secrecy or whispers to avoid detection.”²⁴ He pointed out that the conduct of the buy bust operation was irregular since they deviated from their original target, Cañaverall, without first consulting with their commanding officer.²⁵

Sabanal likewise asserted that it was unbelievable for a drug peddler to have offered exactly P500.00 worth of shabu, the exact same amount as the marked money, and to only have one (1) plastic sachet of shabu on hand.²⁶ He also contended that the police had ill motive since they hit him on the back which caused him to faint. In contrast, the police did not give any clear explanation as to why he lost consciousness.²⁷

²¹ Id.

²² Id. at 37-45. The Judgment was penned by Judge Rosendo B. Bandal, Jr. of the Regional Trial Court of Dumaguete City, Branch 34.

²³ Id. at 45.

²⁴ Id. at 25.

²⁵ Id. at 25-26.

²⁶ Id. at 26.

²⁷ Id. at 27.

Sabanal further argued that the identity of the *corpus delicti* was not sufficiently established since in the photographs, he appeared to be unconscious during the conduct of the inventory.²⁸ He likewise pointed out that the marking of the seized items was suspicious since it was impossible for the police to still have time to mark the items after he had fainted. He also noted that the sachet was marked with his initials even though he was unconscious during the marking.²⁹

The Office of the Solicitor General countered that while Sabanal might not have been the buy-bust operation's original target, he had been caught *in flagrante* selling shabu.³⁰ It pointed out that since the target area was known for drug selling, it was not strange for Sabanal to offer drugs to the poseur buyer who had been looking to purchase drugs from Cañaveras.³¹ It contended that PO1 Balbuena had asked for Sabanal's name during the body search before he fainted, which was why PO1 Balbuena was able to mark the plastic sachet with Sabanal's initials.³²

On May 24, 2018, the Court of Appeals rendered a Decision³³ denying the appeal and upholding the trial court's May 3, 2016 Judgment.

According to the Court of Appeals, the circumstances of the sale were not unusual since "[d]rug pushing when done on a small-scale, like the instant case, belongs to those types of crimes that may be committed any time and at any place."³⁴ It also found no irregularity in the buy-bust team's deviation from their original plan, reasoning that drug trading was rampant in the target area and that the police had the "duty to arrest Sabanal and seize the shabu he was selling *in flagrante delicto*."³⁵

The Court of Appeals likewise found no evidence to prove that Sabanal fainted because he was struck at the back of his head; on the contrary, the police testified that the chase that preceded the arrest caused Sabanal to run out of air.³⁶ It also found that the buy-bust team was able to get Sabanal's name during the body search, and that he only fainted when the buy bust team was preparing to take the inventory.³⁷ It noted that Sabanal was conscious during the conduct of the inventory, as shown by one (1) photo where his eyes were open.³⁸

²⁸ Id. at 28–30.

²⁹ Id. at 31.

³⁰ Id. at 65.

³¹ Id. at 65–66.

³² Id. at 66.

³³ *Rollo*, pp. 4–13.

³⁴ Id. at 9.

³⁵ Id.

³⁶ Id. at 10.

³⁷ Id. at 11.

³⁸ Id. at 12.

Sabanal filed a Notice of Appeal³⁹ which was given due course by the Court of Appeals.⁴⁰ In a September 19, 2018 Resolution,⁴¹ this Court noted the elevation of records and directed the parties to file their supplemental briefs. Both parties, however, manifested that they would no longer submit supplemental briefs and moved that this Court instead consider their briefs submitted before the Court of Appeals.⁴²

This Court is confronted with the sole issue of whether or not the Court of Appeals erred in affirming accused-appellant's guilt beyond reasonable doubt for the sale of illegal drugs.

The sale of illegal drugs is punishable under Section 5 of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002:

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. (Emphasis in the original)

Under this provision, the prosecution must prove the following elements: “(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.”⁴³

In this case, a buy-bust operation was planned against Cañaverál in Zone 3, Barangay Looc, Dumaguete City. Prosecution witness PO1 Balbuena recounts:

- Q Upon arriving at the target area, what happened next?
 A We walked on the interior of Zone 3 beside the old market to look for our subject at the time, ma'am, Jennifer Cañaverál.
- Q Were you able to find Jennifer Cañaverál?
 A No, ma'am.
- Q Why not?

³⁹ Id. at 14–16.

⁴⁰ Id. at 18–19.

⁴¹ Id. at 20–21.

⁴² Id. at 22–25 and 30–32.

⁴³ *People v. Kamad*, 624 Phil. 289, 300 (2010) [Per J. Brion, Second Division] citing *People v. Robles*, 604 Phil. 536 (2009) [Per J. Carpio-Morales, Second Division].

- A After looking around for Jennifer Cañaverl at Zone 3 for quite some time, we met a person named Raul Sabanal and I asked him if he knows where Jennifer Cañaverl is, ma'am . . .
- Q What, if any, was the response of Raul Sabanal to your question?
A He said, "Why? Are you going to buy shabu?"
- Q What, if any, did you do?
A I replied, "Yes, supposedly."
- Q What happened next?
A He replied back, "I also have with me here, five only."
- Q And what was your response?
A At that time he showed to me the shabu, ma'am, he took something from his right pocket and showed it to me.
- Q What did you do, if any?
A That's the time I gave the buy-bust money to Raul in exchange of the shabu.
- Q What, if any, did you do with the shabu?
A I examined the contents of the plastic sachet and based on my experience, I found out that it was shabu. I placed the said sachet inside my pocket and then I declared arrest to Raul Sabanal, ma'am.
- Q When you say that you declared the arrest of Raul Sabanal, how did you do?
A First, I introduced myself as a police officer and then I held his right hand and said that he is arrested for selling, ma'am.
- Q After you informed him that he was being arrested for selling, what did you do next?
A Raul Sabanal resisted that's why we chased him for quite some time at the area.
- Q Were you able to catch him?
A Yes, ma'am, after a few minutes of running after him, Raul Sabanal fell to the ground as he runs out of air.
- Q What happened next?
A That's why I was able to get [a] hold of Raul Sabanal, ma'am. After a few seconds, m[y] back up arrived and assisted me.
- Q After your back up arrived, what happened next?
A I conducted a body search upon Raul Sabanal, ma'am, and recovered the buy-bust money from his right-hand pocket, cell phone, and the cash amount of Two Thousand Nine Hundred Pesos.
- Q After you had recovered these items after the body search, what did you do next?
A A[s] we were preparing for the conduct of the inventory at the place of the incident, I noticed that Raul Sabanal suddenly got pale or was looking pale and about to faint.

- Q What did you do when you noticed that he was becoming pale?
A Before we leave the area, we first marked all the confiscated items and then after that, Inspector Callet decided to have the conduct of the inventory at the Provincial Hospital . . .
- Q What happened after Inspector Callet made his decision?
A We proceeded to the Emergency Room of the Negros Oriental Provincial Hospital and then a few minutes later, Raul Sabanal was already conscious but he was still weak and pale . . .
- Q After Raul Sabanal had already regained consciousness while at the Emergency Room, what happened next?
A We continued with the conduct of the inventory . . .
- Q Can you please tell us, Police Officer Balbuena, since you were beside Police Officer Maquinta when he prepared this Certificate of Inventory, if he was able to list down in this document the shabu which you said [w]as sold to you by Raul Sabanal?
A Yes, ma'am . . .
- Q Please read item number one for the record?
A One (1) piece heat-sealed transparent plastic sachet containing suspected shabu powder/granules marked as "RBS-BB-07/01/11" with signature.
- Q And who made the markings on the heat-sealed transparent plastic sachet containing the suspected drug?
A I was the one, ma'am.
- Q Where did you make the marking?
A At Zone 3, Barangay Looc.
- Q Since you were the one who made the markings, please explain to us what do the markings mean?
A Raul Retes Sabanal-Buy-Bust-July 1, 2011 with my signature . . .
- Q After the physical inventory was conducted, photographs were taken and the witnesses had signed the Certificate of Inventory, what happened next, if any?
A The confiscated items particularly the heat-sealed transpa[r]ent plastic sachet containing suspected shabu, I placed it inside the brown envelope and sealed it with a masking tape . . .
- Q After that, what did you do with this brown envelope which now contains the sachet of suspected shabu?
A We went back to the police station and have it submitted to the crime laboratory, ma'am, for examination.⁴⁴

Accused-appellant argues that the unsolicited offer to sell illegal drugs to a stranger in broad daylight defied belief. He also points out that it was

⁴⁴ CA rollo, pp. 61-64.

unusual for the buy-bust team to quickly abandon their original target for another one.⁴⁵

The prosecution, however, established that the target area had been known for drug peddling. If their original target, Cañaverál, was well known in the area for selling illegal drugs, it is possible for a competitor to intercept a prospective buyer. The police likewise could not be faulted for acting immediately if they witness an offense being committed *in flagrante*.

In any case, PO1 Balbuena and PO2 Maquinta both testified that accused-appellant offered to sell them shabu. When PO1 Balbuena gave him ₱500.00, he handed PO1 Balbuena a plastic sachet with white crystalline substance, or suspected shabu.⁴⁶

However, even if the prosecution has duly proven the first element of sale, it still has the burden to prove the second element: the integrity and evidentiary value of the *corpus delicti*—the illegal drug.

Section 21⁴⁷ of the Republic Act No. 9165 states the procedural safeguards that must be followed by law enforcement agencies to ensure the identity and integrity of the evidence:

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

⁴⁵ Id. at 65.

⁴⁶ Id. at 38.

⁴⁷ The provision was amended in 2014 through Republic Act No. 10640. Since the buy bust occurred in 2011, the old provision will be applied.

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 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[.] (Emphasis in the original)

Section 21(a) of the Implementing Rules and Regulations details how the inventory and photographs are to be accomplished:

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:

- (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[.] (Emphasis in the original)

This procedure outlines the chain of custody, or “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.”⁴⁸

Section 21 enjoins law enforcement agencies to strictly comply with the rule. *Malillin v. People*⁴⁹ explains:

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases—by accident or otherwise—in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.⁵⁰

In order to prove compliance with the chain of custody rule, PO1 Balbuena testified that he had marked the plastic sachet immediately after seizure, that accused-appellant fainted and had to be brought to the hospital, that upon arrival at the hospital, PO2 Maquinta conducted the inventory and took the photographs, and that he was the one to turn over the items to the officer-in-charge for laboratory testing. PCI Llena testified that she received the specimen from the officer-in-charge and that the specimen she tested was the same specimen presented in court.⁵¹

This narration, however, shows a glaring gap in the chain of custody. Neither PC1 Balbuena nor PO2 Maquinta stated who had custody of the plastic sachet on their way to the hospital. The plastic sachet only reappeared when the inventory was being conducted in the hospital.

While there was a justifiable reason why the inventory could not be done immediately in a place other than where the item was seized, the omission in the police officers’ narrative raises doubt that the plastic sachet inventoried was the same one allegedly seized from the accused-appellant.

It should be noted that accused-appellant’s fainting has not been sufficiently explained. According to the prosecution, it was the result of him

⁴⁸ *People v. Climaco*, 687 Phil. 593, 604 (2012) [Per J. Carpio, Second Division] citing Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002.

⁴⁹ *Malillin v. People*, 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

⁵⁰ *Id.* at 589.

⁵¹ *CA rollo*, p. 40.

losing air when he ran away. According to the defense, the police hit him at the back of his head. Neither party presented accused-appellant's medical certificate even though he was brought to the hospital and examined by a physician.

As the facts and evidence are bereft of any information on this matter, any issue on the alleged police brutality which may have occurred during the buy bust operation cannot be adequately addressed.

The fainting incident, however, raises doubt as to whether accused-appellant was actually conscious during the taking of the inventory and photograph of the seized items.

PO1 Balbuena testified that the inventory was conducted in the emergency room of Negros Oriental Provincial Hospital and that the Certificate of Inventory was signed by media representative Elloran, National Prosecution Service process server Benlot, Barangay Kagawad Catada, and Kagawad Balongag.⁵² The prosecution witnesses, however, could not say for certain if accused-appellant was awake, or that if he was awake, he was able to observe the inventory. PO1 Balbuena testified:

Q When you say that Raul Sabanal was conscious at the time, was this observation of yours also pronounced by his attending physician that he was already conscious?

A No, ma'am. That is only based on our observation, ma'am, because his eyes were opened [sic].⁵³

.....

Q So, even in these Exhibits "F," "F-1," and "F-3," the Certificate of Inventory was signed by the witnesses on the same table where it is not within the view of the accused, or even if the accused was conscious or opening his eyes during that time, it is not within the view of the accused, right?

A Yes, ma'am.

Q In this case, would you agree with me that the accused has closed eyes in these photographs?

A Yes, Ma'am.

Q In these photographs, the photographs appear that the accused has closed eyes and appears to be unconscious. Is that the reason why the signature or name does not appear here on this Inventory?

A Yes, ma'am.⁵⁴

⁵² CA rollo, p. 39.

⁵³ Id. at 29.

⁵⁴ Id.

The Court of Appeals observed that in the photograph marked Exhibit "F-2," accused-appellant appeared to be awake since his eyes were open.⁵⁵ Media representative Elloren, however, confirmed that accused-appellant did not see him signing the Certificate of Inventory:

Q Now, in this photograph which you identified earlier where your image appears as signing the inventory, the image of the accused here is also reflected wherein he appears to be sleeping or unconscious; is this how you actually saw him at the ER?

A Yes, ma'am.

Q Now, you mentioned earlier that you made sure that the items shown to you are the very same ones described in the inventory which you signed and in this case, this was only what you made sure, but you did not make sure that the accused was able to witness or to see that you signed the inventory?

A He did not see, ma'am.⁵⁶

Section 21 of the the Implementing Rules and Regulations requires that the inventory and the photographs be done "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." The phrase "in the presence of the accused" connotes that accused is physically *and* mentally present during the inventory. If the accused is prevented from observing the conduct of the inventory, it would be possible for the apprehending officers to switch or plant evidence other than what was seized from the accused.

Interestingly, both National Prosecution Service process server Benlot and media representative Elloren testified that they were called by the police to witness only the inventory of the buy-bust operation.⁵⁷ The inventory also appears to have already been concluded when the witnesses arrived. The trial court stated:

At the hospital, [National Prosecution Service process server Anthony Chilius Benlot] saw some arresting officers, herein accused Raul Sabanal lying on a hospital bed, a woman sitting beside him and media representative Reysan Elloren. He also saw the inventory sheet, the confiscated items and some cash beside the bed. When he confirmed that the confiscated items presented tallied with the items listed, he affixed his signature on the inventory sheet.

....

When [media representative Reysan Elloren] arrived at the Emergency Room of the hospital, he was informed that the person lying

⁵⁵ *Rollo*, p. 12.

⁵⁶ *CA rollo*, p. 29.

⁵⁷ *Id.* at 41.

on the bed was the arrested person. Elloren saw beside the arrested person the sachet of shabu allegedly seized from him and an inventory receipt. He examined the sachet of suspected shabu which had markings on it. After he verified that the items shown tallied with the ones described in the inventory sheet, he affixed his signature thereon. . . ⁵⁸

This means that the witnesses required by Section 21 were not actually present during the seizure and marking of the evidence, the most crucial period in the chain of custody. As explained in *People v. Mendoza*:⁵⁹

Without the insulating presence of the representative from the media or the Department of Justice, or any elected public official during the seizure and marking of the sachets of shabu, the evils of switching, "planting" or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA No. 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 sachets of shabu that were evidence herein of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused. Indeed, the insulating presence of such witnesses would have preserved an unbroken chain of custody.⁶⁰

The seizure of often minuscule amounts requires a stricter application of the procedural requirements in order to ensure the integrity of the prosecution's evidence. In *People v. Holgado*,⁶¹ this Court has lamented:

Trial courts should meticulously consider the factual intricacies of cases involving violations of Republic Act No. 9165. All details that factor into an ostensibly uncomplicated and barefaced narrative must be scrupulously considered. Courts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving minuscule amounts of drugs. These can be readily planted and tampered. Also, doubt normally follows in cases where an accused has been discharged from other simultaneous offenses due to mishandling of evidence. Had the Regional Trial Court and the Court of Appeals been so judicious in this case, a speedier resolution would have been handed to Holgado and Misarez whose guilt beyond reasonable doubt was not established.⁶²

The failure to prove an unbroken chain of custody is enough for reasonable doubt to arise in the prosecution's case. Thus, accused-appellant must be acquitted.

WHEREFORE, the appeal is **GRANTED**. The Decision of the Court of Appeals in CA G.R. CR HC No. 02429 is **REVERSED** and **SET**

⁵⁸ CA Rollo, p. 41.

⁵⁹ 736 Phil. 749 (2014) [Per J. Bersamin, First Division].

⁶⁰ Id. at 764.

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

⁶² Id. at 100.

March 11, 2020

ASIDE. Accused-appellant Raul Retes Sabanal is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** unless he is confined for any other lawful cause.

Let a copy of this Resolution be furnished the Superintendent of the National Bilibid Prison for immediate implementation. The Superintendent is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he or she has taken.

Let copies be furnished to the Philippine National Police and the Philippine Drug Enforcement Agency for their information.

SO ORDERED.”

Very truly yours,

Misa PDC Batt
MISAELO DOMINGO C. BATTUNG III
 Division Clerk of Court *for 3/11/20*

Atty. Mandy R. Majarocon
 Regional Special & Appealed Cases Unit
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COURT OF APPEALS
 CA G.R. CEB CR HC NO. 02429
 6000 Cebu City

OFFICE OF THE SOLICITOR GENERAL
 134 Amoroso Street
 Legaspi Village, 1229 Makati City

The Presiding Judge
 REGIONAL TRIAL COURT
 Branch 34, 6200 Dumaguete City
 (Crim. Case No. 2011-20567)

The Director General
 BUREAU OF CORRECTIONS
 1770 Muntinlupa City

Mr. Raul R. Sabanal
 c/o The Superintendent
 New Bilibid Prison West
 BUREAU OF CORRECTIONS
 1770 Muntinlupa City

The Superintendent
 New Bilibid Prison West
 BUREAU OF CORRECTIONS
 1770 Muntinlupa City

The Director General
 PHILIPPINE NATIONAL POLICE
 National Headquarters
 Camp Crame, Quezon City

The Director General
 PHILIPPINE DRUG ENFORCEMENT AGENCY
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G.R. No. 243573

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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 243573

-versus-

RAUL R. SABANAL,
Accused-Appellant.

x-----/

ORDER OF RELEASE

TO: The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Thru: **The Superintendent**
New Bilibid Prison West
BUREAU OF CORRECTIONS
1770 Muntinlupa City

GREETINGS:

WHEREAS, the Supreme Court on March 11, 2020 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

“**WHEREFORE**, the appeal is **GRANTED**. The Decision of the Court of Appeals in CA G.R. CR HC No. 02429 is **REVERSED** and **SET ASIDE**. Accused-appellant Raul Retes Sabanal is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** unless he is confined for any other lawful cause. *MA*”

Let a copy of this Resolution be furnished the Superintendent of the National Bilibid Prison for immediate implementation. The Superintendent is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he or she has taken.

Let copies be furnished to the Philippine National Police and the Philippine Drug Enforcement Agency for their information.

SO ORDERED.”

NOW, THEREFORE, You are hereby ordered to immediately release **RAUL R. SABANAL** unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

GIVEN by the Honorable **MARVIC MARIO VICTOR F. LEONEN**, Chairperson of the Third Division of the Supreme Court of the Philippines, this **11th** day of **March 2020**.

Very truly yours,

Mis-POCBatt
MISAEEL DOMINGO C. BATTUNG III
Division Clerk of Court

9/7/20

Atty. Mandy R. Majarocon
Regional Special & Appealed Cases Unit
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