



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 3, 2020 which reads as follows:

“G.R. No. 248053 (*People of the Philippines v. Ryan Icarro y Albos*). – For resolution is an appeal under Section 13(c), Rule 124 of the Rules of Court, assailing the Decision¹ dated July 30, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09567, which affirmed the Decision² dated July 12, 2016 of the Regional Trial Court (RTC) finding accused-appellant Ryan Icarro y Albos (Ryan) guilty of violating Sections 5 and 11 of Republic Act No. (R.A.) 9165, otherwise known as the “Dangerous Drugs Act of 2002.”

Antecedents

Ryan was arrested during a buy-bust operation and charged before the RTC of Calamba, Laguna in Criminal Case No. 23175-2014-C as follows:

x x x x

That on or about July 26, 2014, at Los Banos, Laguna and within the jurisdiction of this Honorable Court, the above named accused did then and there willfully, unlawfully and feloniously sell and deliver one (1) plastic sachet of methamphetamine hydrochloride or shabu, a dangerous drug weighing 0.02 gram (*sic*) in violation of the aforementioned law.

CONTRARY TO LAW.³

- over – fifteen (15) pages ...

168-A

¹ Penned by Associate Justice Jhosep Y. Lopez, with the concurrence of Associate Justices Japar B. Dimaampao and Manuel M. Barrios; *rollo*, pp. 3-20.

² Penned by Presiding Judge Glenda R. Mendoza-Ramos; records (Crim. Case No. 23175-2014-C), pp. 77-88.

³ Id. at 1.

In Criminal Case No. 23176-2014-C, he was accused as follows:

x x x x

That on or about July 26, 2014, at Los Banos, Laguna and within the jurisdiction of this Honorable Court, the above named accused did then and there willfully, unlawfully and feloniously have in his possession, custody and control two (2) plastic sachets of methamphetamine hydrochloride or shabu, a dangerous drug with a total net weight of 0.05 gram (*sic*) in violation of the aforementioned law.

CONTRARY TO LAW.⁴

His brother Argie Icarro y Albos (Argie) was also accused under Section 11 of R.A. 9165 for illegal possession of one (1) sachet of *shabu* (Criminal Case No. 23177-2014-C). These cases were consolidated as they arose from the same buy-bust incident. Both Ryan and Argie pleaded not guilty to their respective charges and trial ensued.⁵

Version of the Prosecution

The prosecution presented two witnesses: (1) PO1 Rhyann Medina (PO1 Medina); and (2) P/Chief Inspector Dona Villa P. Huelgas (PCI Huelgas). As stipulated by the parties, the testimony of PO3 Thomas A. Rago (PO3 Rago) was only to corroborate the testimony of PO1 Medina and was thus dispensed with.⁶

Part of PO1 Medina's testimony is narrated in *Pinagsamang Sinumpaang Salaysay* dated July 28, 2014,⁷ in which he averred that around 1:20 a.m. of July 26, 2014, while stationed at the municipal police station of Los Baños, Laguna, he, PO3 Rago, and PO3 John Roel L. Capiroso (PO3 Capiroso) received a tip from a civilian asset that Ryan was selling *shabu* (methamphetamine hydrochloride) somewhere in Brgy. Lalakay, Los Baños. PCI Ricardo Indico Dalmacia (PCI Dalmacia) immediately ordered them to conduct a buy-bust operation with PO1 Medina to act as the *poseur*-buyer. PO1

- over -

168-A

⁴ Records (Crim. Case No. 23176-2014-C), p. 1.

⁵ Records (Crim. Case No. 23175-2014-C), p. 78.

⁶ Id. at 58.

⁷ Id. at 5-6.

Medina was given a ₱500.00 bill (Serial No. SE525219)⁸ to be used as marked money for the operation, which was conducted under Philippine Drug Enforcement Agency (PDEA) control number 071-0026.⁹

The asset then called up Ryan on his phone and arranged to meet somewhere near the Lalakay barangay hall. Together, PO1 Medina and the asset rode a motorcycle to the location, with PO3 Capiroso, PO3 Rago, and several other policemen covertly following them in a private vehicle at a distance.¹⁰

Upon reaching the agreed location, PO1 Medina and the asset immediately spotted Ryan, waiting by the roadside with a male companion, who was later identified as Argie. After introductions, Ryan asked PO1 Medina how much *shabu* the latter wanted to buy. PO1 Medina replied that he wanted ₱500.00 worth of *shabu* as he handed over the marked ₱500.00 bill to Ryan, who then conversed with Argie. Ryan then reached into his pocket to take out a small plastic sachet, which he gave to PO1 Medina.¹¹

PO1 Medina then removed his cap, which was the pre-arranged signal to the other policemen that the sale was completed. PO3 Capiroso and PO3 Rago got out of their vehicle and approached Ryan and PO1 Medina, who revealed himself to be a policeman. PO1 Medina then arrested Ryan and took possession of the marked money. He also recovered two more transparent plastic sachets. While, this was happening, Ernesto E. Bautista (Bautista), councilor of Brgy. Timugan, arrived.¹² PO3 Rago searched and ordered Argie to empty his pockets, revealing one plastic sachet containing *shabu*. PO3 Capiroso informed Ryan and Argie of their constitutional rights.¹³

PO1 Medina marked the plastic sachet he purchased from Ryan with "RIA 1," and the two additional sachets he recovered as "RIA 2" and "RIA 3." PO1 Medina marked the sachet recovered by PO3 Rago from Argie as "AIA."¹⁴ Because Ryan and Argie were resisting arrest, the buy-bust team decided to conduct the inventory at the barangay hall of Lalakay instead of the place of arrest.¹⁵ In the

- over -

168-A

⁸ Id. at 14.

⁹ Id. at 5.

¹⁰ Id.

¹¹ Id. at 5-6.

¹² Id.

¹³ Id.

¹⁴ Id.; TSN dated March 1, 2016, p 8.

¹⁵ TSN dated March 1, 2016, p. 19.

Pinagsamang Sinumpaang Salaysay, only Bautista was mentioned as a witness,¹⁶ but during re-direct examination, PO1 Medina testified that media representative Liberato Tatad (Tatad) was also present during the conduct of the inventory.¹⁷ While PO1 Medina was not able to positively state in his testimony that Tatad signed the inventory, he was able to identify the Receipt of Physical Inventory, which bears the signatures of Tatad, Bautista, and Rodulph R. Salan (Salan), another barangay councilor.¹⁸ Afterwards, the police officers brought Ryan and Argie to the police station for processing.¹⁹

At around 4:30 a.m. of that day, PO3 Rago went to the Regional Crime Laboratory in Camp Vicente Lim, Calamba City and transferred the four (4) plastic sachets to one PO3 Jaime Ang (PO3 Ang).²⁰

PCI Huelgas testified that on July 26, 2014, she was the forensic chemist on duty at the Regional Crime Laboratory in Camp Vicente Lim, Calamba City²¹ and that her office received a request for laboratory examination.²² Attached to the request were the four (4) specimens allegedly confiscated from Ryan and Argie.²³ She examined the said specimens and concluded that all were positive for methamphetamine hydrochloride. She reduced her findings into writing in Chemistry Report No. D-6915-14.²⁴ She marked the specimens with D-695-14, her initials, and A, B, C, D, respectively.²⁵ She then turned over the specimens to SPO3 Joselito Mariano (SPO3 Mariano), an employee of the Regional Crime Laboratory.²⁶ At trial, the prosecutor presented to PCI Huelgas a white envelope marked D-695-14 DPH. It was opened with the permission of the trial judge. Inside was a plastic sachet marked D-695-14 containing four (4) plastic sachets with white crystalline substance. PCI Huelgas testified that she had marked these specimens with D-695-14, her initials "DPH," and the letters A, B, C, & D, respectively.²⁷

- over -

168-A

¹⁶ Id.
¹⁷ Id. at 18.
¹⁸ Records (Crim. Case No. 23175-2014-C), p. 13.
¹⁹ Records (Crim. Case No. 23176-2014-C), p. 6.
²⁰ Records (Crim. Case No. 23175-2014-C), p. 10.
²¹ TSN dated May 12, 2015, p. 4.
²² Records (Crim. Case No. 23175-2014-C), p. 8.
²³ Id. at 9.
²⁴ Id. at 15-16.
²⁵ TSN dated May 12, 2015, p. 6.
²⁶ Id. at 9.
²⁷ Id. at 6.

Version of the Defense

Only Ryan testified for the defense. He denied the allegations against him and explained that the encounter with the police occurred not on July 26, 2014, but 10 days earlier on July 16, 2014.²⁸ In his *Salaysay*,²⁹ Ryan narrated that he and Argie were traveling on the latter's tricycle at around midnight of July 16, 2014 when uniformed policemen flagged their tricycle at Receria, Brgy. Lalakay. Ryan thought that it was just a check-point, but the police pointed their guns at them and forced them to alight. The police conducted a search on their persons and their tricycle, but recovered nothing.³⁰

They were then forced onto the policemen's vehicle and brought to the police station, where they were led into a room. Inside, there were two cups of water in which the police mixed an unknown substance. The police then forced them to drink the contents of the cups and they started to feel dizzy. A small table was then brought before them. On it were four (4) plastic sachets and a ₱500.00 bill. They were told to point at the items, but they refused. Argie was boxed. When Ryan protested, he too was boxed. And so, they reluctantly pointed at the items. They were then brought to the barangay hall, where they learned that drug charges were being filed against them.³¹ Asked where he was on July 26, 2014, Ryan said that he was already in jail.³²

Ruling of the Regional Trial Court

The RTC found Ryan guilty of the crimes charged. It gave full credence to PO1 Medina's positive testimony over Ryan's defense of mere denial, which it found as inherently weak. The trial court found that the prosecution successfully proved all the elements of the crime of illegal sale of dangerous drugs were present.³³ It also affirmed the validity of the warrantless search, which resulted in the recovery of two (2) additional plastic sachets, as incidental to a lawful arrest.³⁴ Thus, in Criminal Case No. 23175-2014-C, he was sentenced to life imprisonment and to pay a fine of ₱500,000.00, while in Criminal Case No. 23176-2014-C, he was sentenced to imprisonment for twelve (12) years and one (1) day to twenty (20) years and to pay a fine of ₱300,000.00.³⁵

- over -

168-A

²⁸ TSN dated May 24, 2016, p. 8.

²⁹ Records (Crim. Case No. 23175-2014-C), p. 71.

³⁰ Id.

³¹ Id.

³² TSN dated May 24, 2016, p. 8.

³³ Records (Crim. Case No. 23175-2014-C), pp. 82-83.

³⁴ Id. at 84-86.

³⁵ Id. at 87.

Meanwhile, Argie was acquitted in Criminal Case No. 23177-2014-C. The trial court ruled that the prosecution failed to prove his guilt beyond reasonable doubt as there was no evidence that he was committing an illegal act that would justify an immediate body search.³⁶

Ruling of the Court of Appeals

Ryan appealed to the CA.³⁷ In his brief,³⁸ *first*, he argued that PO1 Medina was an inconsistent witness, pointing out that the latter flip-flopped on many important points, specifically, whether: (1) the operation was sanctioned by the PDEA; (2) he recovered drugs from Ryan and Argie or only from Ryan; (3) the witnesses were present during the operation; and (4) who handled the drugs seized from the accused.³⁹ *Second*, he contended that the elements of the crimes were not proven because PO1 Medina was inconsistent and the prosecution failed to present the best witness, *i.e.*, the police asset.⁴⁰ *Third*, he pointed out that the buy-bust team failed to strictly comply with the rules on chain of custody.⁴¹ *Fourth*, he reasoned that the seizure of the two (2) additional sachets of drugs was incidental to an illegal warrantless arrest and, therefore, inadmissible.⁴²

The Office of the Solicitor General (OSG), representing the plaintiff-appellee, maintained that PO1 Medina is a credible witness, citing our ruling in *Kummer v. People*⁴³ that slight contradictions serve to strengthen witness credibility as they tend to prove that the testimony is unrehearsed. The OSG pointed out that PO1 Medina was firm in testifying that the buy-bust operation was coordinated with PDEA⁴⁴ and that his testimony that Tatad and Bautista were present during the inventory was corroborated by the Receipt of Physical Inventory.⁴⁵ PO1 Medina was also clear that it was PO3 Rago who brought the seized drugs to the crime laboratory, as also in fact stipulated by the parties.⁴⁶

The OSG also argued that PO1 Medina's consistent testimony was sufficient to prove the elements of the crimes. Furthermore, it was

- over -

168-A

³⁶ Id. at 86.
³⁷ Id. at 90.
³⁸ CA rollo, pp. 37-59.
³⁹ Id. at 44-46.
⁴⁰ Id. at 46-49.
⁴¹ Id. at 50-55.
⁴² Id. at 56-58.
⁴³ 717 Phil. 670, 678 (2013).
⁴⁴ CA rollo, p. 99.
⁴⁵ Id. at 100.
⁴⁶ Id. at 101.

not necessary to present the police asset on the witness stand to prove the elements of the crimes and that the appellate court cannot pass over the factual findings of the trial judge, who has the unique opportunity to observe the deportment of the witness and discern his credibility.⁴⁷

The OSG maintained that the prosecution proved an unbroken chain of custody of the drugs. They were seized by PO1 Medina from the accused, brought by PO3 Rago to the crime laboratory, where it was received by PO3 Ang and then examined and confirmed to be *shabu* by PCI Huelgas.⁴⁸

The CA agreed with the OSG on virtually all points and affirmed the RTC Decision. Hence, this appeal. Both the accused and the OSG manifested that in lieu of filing Supplemental Briefs, they are adopting the arguments they had presented in their respective briefs submitted to the CA.⁴⁹

Issue

The sole issue to be resolved is whether Ryan is guilty of committing the crimes charged.

Ruling of the Court

The appeal is meritorious.

In drugs cases, the prosecution has the burden to prove the *corpus delicti*, which is the confiscated drug itself.⁵⁰ Section 21 of R.A. 9165, as amended by R.A. 10640, provides for the chain of custody protocols that law enforcement officers must comply with to preserve the integrity of the confiscated drugs and thereby establish the *corpus delicti*. In this case, the Court has reasonable doubts as to the *corpus delicti* due to substantial and unexplained gaps in the chain of custody. *First*, We observe that while a media representative and an elected public official may have been present during the inventory, there is no evidence that they witnessed the arrest, and immediately thereafter, the seizure and marking of the confiscated drugs. Even more glaringly, there was no representative from the Department of Justice (DOJ) at all. *Second*, the inventory and photographing of the seized items were conducted at a barangay hall, which is not among

- over -

168-A

⁴⁷ Id. at 104, citing *People v. Tinampay*, 451 Phil. 324 (2003).

⁴⁸ Id. at 103-108.

⁴⁹ *Rollo*, pp. 29-40.

⁵⁰ *People v. Catalan*, 699 Phil. 603 (2012).

the authorized location under Section 21(1) of R.A. 9165. *Third*, there is no positive evidence that the specimens received by forensic chemist, PCI Huelgas, were the same ones delivered by PO3 Rago to PO3 Ang. In the same vein, the prosecution also failed to prove who brought the specimens to court.

The witnesses required by Section 21(1) of R.A. 9165 were not present during the arrest, seizure, and marking of the confiscated drugs

At the outset, We must distinguish the witness requirements under the original text of R.A. 9165 and the amended version under R.A. 10640, which took effect on August 7, 2014.⁵¹ Under the original rule, three (3) witnesses must be present at the time of the seizure, marking, inventory and photograph of the seized items, *i.e.*, (1) an elected public official; (2) a representative from the media; and (3) a representative from the DOJ. Meanwhile, under R.A. 10640, only two (2) witnesses are required, namely: (1) an elected public official; and (2) a representative from the National Prosecution Service **or** the media.⁵² Since the buy-bust operation supposedly occurred on July 26, 2014, the three-witness rule under the original text of Section 21 of R.A. 9165 applies in this case. The records show, as admitted by PO1 Medina, that the DOJ representative was not present during the entire buy-bust operation.⁵³ When pressed to explain the absence of the DOJ representative, PO1 Medina's feeble answer was that they could not contact anyone from the DOJ at that time.⁵⁴ The Receipt of Physical Inventory shows that only a media representative (Tatad) and two barangay councilors (Bautista and Salan) were present during the inventory. However, another elected public official cannot count as a substitute for the DOJ representative. Clearly, the buy-bust team failed to comply with the three-witness rule.

Moreover, whether it be under the original text of Section 21 of R.A. 9165 or under the ostensibly less stringent two-witness rule under the R.A. 10640 amendment, this Court has consistently ruled that the witnesses must not only be present during the inventory, but more importantly, also at the time of the warrantless arrest and seizure of the drugs, because it is precisely then that their insulating presence

- over -

168-A

⁵¹ *People v. Gutierrez*, G.R. No. 236304, November 5, 2018.

⁵² Section 21(1), R.A. 9165, as amended by Sec. 1, R.A. 10640.

⁵³ TSN dated March 1, 2016, p. 16.

⁵⁴ *Id.* at 19.

will deter “planting” or contamination of evidence.⁵⁵ This requirement, as with all others set by Section 21 of R.A. 9165, must be strictly complied with to prevent any doubt as to the identity of the *corpus delicti* from the time of its seizure, to its presentation as evidence in court, and then to final disposition.

In this case, PO1 Medina said in the *Pinagsamang Sinumpaang Salaysay* that Brgy. Councilor Bautista arrived at the scene only after the arrest and seizure of the plastic sachets.⁵⁶ Moreover, there is no evidence on record to prove that the other witness, media representative Tatad, was already at the scene at the time of the arrest, seizure, and marking of the seized items. While, it is true that the Receipt of Physical Inventory⁵⁷ bears the name and signatures of Tatad and two elected officials (Bautista and Salan), said document only proves, at the least, that they were present during the inventory. It does not in itself prove their presence at the time of Ryan’s warrantless arrest and the seizure of the drugs. In fact, PO1 Medina himself confirmed during cross-examination that the said witnesses were not present during the buy-bust operation, *viz.*:

x x x x

(ATTY. MALABANAN)

Q: And during those times, Mr. Witness, that you were conducting the buy bust operation, you would admit that there is no DOJ representative present?

(PO1 MEDINA) A: Yes, ma’am.

Q: As well as the media representative present during the buy-bust operation?

A: Yes, ma’am.

Q. As well as the barangay representative present during the buy-bust operation?

A: Yes, ma’am.

x x x x⁵⁸

- over -

168-A

⁵⁵ *People v. Mendoza*, 736 Phil. 749, 761 (2014). See also *People v. Catalan*, 699 Phil. 603, 618 (2012); *People v. Asaytuno*, G.R. No. 245972, December 2, 2019; *People v. Tomawis*, G.R. No. 228890, April 19, 2018.

⁵⁶ Records (Crim. Case No. 23176-2014-C), pp. 6-7.

⁵⁷ Records (Crim. Case No. 23175-2014-C), p. 12.

⁵⁸ TSN dated March 1, 2016, p. 16.

The prosecution failed to adequately explain why the inventory and photographing of the seized items were conducted at a barangay hall, and not at the place of arrest, nearest police station, or nearest office of the apprehending officer as provided under Section 21(1) of R.A. 9165

We also find the taking of the inventory and photograph at the barangay hall as an irregularity that the prosecution failed to justify. PO1 Medina was consistent during cross-examination that the taking of the inventory and photograph of the seized drugs was not done at the place of arrest but inside the barangay hall, viz.:

Cross Testimony
(ATTY. MALABANAN)

Q: And as to the pictures you submitted before this Honorable Court, it was taken at the barangay hall, correct?

(PO1 MEDINA)

A: Yes, ma'am.

Q: And there are no pictures presented before this Court as to the actual place of arrest, correct?

A: Yes, ma'am.

x x x⁵⁹

The proviso of Section 21(1) of R.A. 9165, clearly states: "x x x 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."⁶⁰

- over -

168-A

⁵⁹ Id. at 17.

⁶⁰ Underscoring supplied.

A barangay hall is not, in itself, an invalid place to conduct the inventory and photograph; however, the proviso of Section 21(1) of R.A. 9165 clearly requires an explanation why it was not done at the place of arrest, in the nearest police station, or the nearest office of the apprehending officer. Any deviation from the requirements of Section 21 of R.A. 9165, must be acknowledged and justified by the prosecution.⁶¹ Thus, in the similar case of *People v. Cornel*,⁶² We acquitted the accused because the prosecution failed to adequately explain why the inventory was conducted at a barangay hall and not at the place of arrest.

In *People v. Lim*,⁶³ We had held that the immediate physical inventory and photograph of the confiscated items at the place of arrest may be excused in instances when the safety and security of the apprehending officers and the witnesses required by law or of the items seized are threatened by immediate or extreme danger such as retaliatory action of those who have the resources and capability to mount a counter-assault.⁶⁴ PO1 Medina tried to explain why the inventory was done at the barangay hall, viz.:

(Re-Direct Testimony)
FISCAL MENDOZA

Q. You also mentioned during your cross-examination that you took pictures at the barangay office and not at the actual place where you arrested the accused?

(PO1 MEDINA)
A: Yes, ma'am.

Q: And what is the reason why you did not conduct the inventory at the exact place where you arrested both accused?

A: Because the accused were already desisting (*sic*) the arrest, ma'am.

x x x x⁶⁵

We do not believe that mere resistance to an arrest is an adequate excuse in this case. Resistance to arrest is a contingency that police officers are presumed to be adequately trained to deal with.

- over -

168-A

⁶¹ *People v. Mamangon*, G.R. No. 229102, January 29, 2018.

⁶² G.R. N. 229047, April 16, 2018.

⁶³ G.R. No. 231989, September 4, 2018.

⁶⁴ Id., citing *People v. Mola*, G.R. No. 226481, April 18, 2018.

⁶⁵ TSN dated March 1, 2016, p. 19.

Moreover, the buy-bust operation was done around 1:20 a.m. in a place that was not dark. PO1 Medina also testified that there were no other people in the street at the time.⁶⁶ Also, the accused were unarmed and outnumbered by the buy-bust team. These circumstances lead us to believe that the buy-bust team were not in any immediate danger of a counter-assault and as such, had no reason why they could not take the inventory and photograph at the immediate place of seizure of the drugs.

There were gaps in the chain of custody in the handling of the specimens at the crime laboratory and prior to its presentation in court

Assuming *arguendo* that the buy-bust operation was all in order, we nevertheless see that afterwards, there was a notable gap in the chain of custody between: (1) PO3 Ang to PCI Huelgas; and (2) immediately before presentation of the specimens in court.

It must be recalled that in *Mallillin v. People*,⁶⁷ we said:

x x x x

The chain of custody is established by **testimony** about every link in the chain, from the moment the item was picked up to the time it is offered in 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.** x x x⁶⁸
(Emphasis and underscoring supplied)

The prosecution and the defense stipulated that what PO1 Medina seized was taken into custody by PO3 Rago and that the latter

- over -

168-A

⁶⁶ Id. at 15.

⁶⁷ 576 Phil. 576 (2008).

⁶⁸ Id. at 587.

transported it to the crime laboratory.⁶⁹ PO3 Rago supposedly handed the specimens to PO3 Ang, from whom we hear nothing at all, as he was not even named as a prosecution witness at pre-trial.⁷⁰ We only know that his name appears in a Chain of Custody Form,⁷¹ which, as a public document, is *prima facie* evidence of the facts stated therein.⁷² It is at this point, however, that the chain is broken, because there is nothing in the records to show what happened to the specimens immediately after PO3 Ang received them. What is on record is that PCI Huelgas said that her office received a letter-request for examination with the four (4) specimens attached. The letter-request is stamped “recorded by PO3 Jaime Ang” and “delivered by PO3 Rago, Tomas.”⁷³ However, nothing in the said document or in the records shows that it was from PO3 Ang that PCI Huelgas received the specimens. Indeed, she did not testify from whom and when she received the letter-request with the specimens attached. A plain statement that the crime laboratory sent over a letter-request with the specimens attached is insufficient. There must have been testimonial or documentary evidence to show that the specimens were exclusively handled by PO3 Ang and PCI Huelgas. As previously discussed, the law places the burden on the prosecution to prove every link in the chain of custody. The Court cannot do the prosecution any favors and make the inference that it was PO3 Ang, a person who only exists on paper, who handed the specimens to PCI Huelgas.

Furthermore, the prosecution failed to account for how the specimens reached the trial court. PCI Huelgas testified that she gave it to SPO3 Mariano for safekeeping, but the records do not show where SPO3 Mariano kept them, what measures he took to ensure the security and integrity of the specimens, and crucially, whether it was he or someone else who took them out from storage and brought them to court. PCI Huelgas was made to identify a white envelope and its contents, but we have no idea how such envelope got there. It is as if it just appeared in the middle of trial. We cannot simply assume that it was SPO3 Mariano who brought them to court. Contrary to the CA’s observation, nothing in the records shows that “[when] PCI Huelgas testified in open court, she retrieved the said confiscated items from SPO3 Joselito Mariano and presented the same in court.”⁷⁴ The CA could not cite a piece of evidence to support such a statement, because indeed, not even the RTC made such a factual finding. We find that

- over -

168-A

⁶⁹ *Rollo*, p. 133.

⁷⁰ Records (Crim. Case No. 23175-2014-C), p. 41.

⁷¹ *Id.* at 10.

⁷² Section 23, Rule 132 of the Rules of Evidence.

⁷³ Records (Crim. Case No. 23175-2014-C), p. 8.

⁷⁴ *Rollo*, p. 18.

this case has similarities with *Mallillin* case above, where the prosecution also failed to present several police officers who had custody of the seized drugs. The absence of their accounts meant that there were serious gaps in the chain of custody that could not be explained.


In the *Mallillin* case cited above, We also said that “the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small.” In this case, the three (3) specimens supposedly taken from Ryan weighed 0.02 gram, 0.02 gram, and 0.03 gram, respectively. These are very small amounts indeed. Therefore, all the more should the prosecution have taken a greater degree of care in establishing the chain of custody.

We conclude that due to the numerous unexplained deviations from the standard protocols in the handling of the seized drugs, there is no moral certainty that the drugs submitted into evidence were the same seized from the accused. Thus, the prosecution failed to prove the *corpus delicti*.

WHEREFORE, the appeal is **GRANTED**. The Decision dated July 30, 2018 of the Court of Appeals in CA-G.R. CR-CH No. 09567 is **REVERSED** and **SET ASIDE**. Accused-appellant Ryan Icarro y Albos is hereby **ACQUITTED** of the crimes charged against him and is **ORDERED** to be **IMMEDIATELY RELEASED**, unless he is being lawfully held in custody for any other reason. The Director of the Bureau of Corrections is **DIRECTED** to inform this Court of the action he has taken hereon within five (5) days from receipt hereof.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
168-A

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

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 09567)

The Hon. Presiding Judge
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(Crim. Case Nos. 23175-2014-C
& 23176-2014-C)

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168-A

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