



Republic of the Philippines
Supreme Court
Manila

SPECIAL FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Special First Division, issued a Resolution dated **January 20, 2021** which reads as follows:*

“**G.R. No. 229098 (People of the Philippines v. Renato Aquino y Tadena)**. – This is an appeal¹ seeking to reverse and set aside the Decision² dated October 12, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06942, which affirmed the Joint Decision³ dated July 3, 2014 of the Regional Trial Court (RTC) of Dagupan City, Branch 44, finding accused-appellant Renato Aquino y Tadena (Aquino) guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. (R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Facts of the Case

In two separate Informations, Aquino was charged with violation of Sections 5 and 11, Article II of R.A. 9165, to wit:

CRIMINAL CASE NO. 2008-0216-D:

That on or about the 22nd day of April, 2008, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, **RENATO AQUINO Y TADENA**, did then and there, willfully (*sic*), unlawfully and criminally sell and deliver to a customer *Shabu*

- over – fourteen (14) pages ...

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¹ *Rollo*, pp. 16-17.

² Penned by Associate Justice Melchor Q.C. Sadang, with the concurrence of Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier (now a Member of this Court); *CA rollo*, pp. 94-107.

³ Penned by Judge Genoveva Coching-Maramba; records (Criminal Case No. 2008-0215-D), pp. 228-238.

contained in one (1) heat-sealed plastic sachets, weighing more or less 0.1 gram, without authority to do so.

Contrary to Article II, Section 5, R.A. 9165.⁴

CRIMINAL CASE NO. 2008-0215-D:

That on or about the 22nd day of April, 2008, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, **RENATO AQUINO Y TADENA**, did then and there, willfully (*sic*), unlawfully and criminally have in his possession, custody and control Shabu contained in six (6) heat-sealed plastic sachets, weighing more or less 0.41 gram, without authority to possess the same.

Contrary to Article II, Section 11, R.A. 9165.⁵
(Emphases in the original)

When arraigned, Aquino entered the plea of not guilty to the crimes charged against him.⁶ Joint trial then ensued.⁷

The prosecution presented: (1) PO3 Christian Carvajal (PO3 Carvajal); (2) PS/Insp. Myrna Malojo (PS/Insp. Malojo); (3) SPO1 Ireneo Velasquez (SPO1 Velasquez); and (4) PO3 Michael C. De Vera (PO3 De Vera) as its witnesses.⁸

The prosecution's evidence established that on April 22, 2008, the Chief of Police of the Philippine National Police, Dagupan City, ordered the creation of a buy-bust team with PO3 Carvajal as the *poseur*-buyer, police officers Leo Llamas (P/Insp. Llamas) and Gilbert Ferrer as back-up, and a civilian asset to accompany PO3 Carvajal. The buy-bust team was formed to entrap Aquino, a drug personality in the community.⁹ Buy-bust money worth ₱500.00 consisting of different denominations¹⁰ was prepared and recorded in the police blotter.¹¹

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⁴ Records (Criminal Case No. 2008-0216-D), p. 1.

⁵ Records (Criminal Case No. 2008-0215-D), p. 1.

⁶ Id. at 47; records (Criminal Case No. 2008-0216-D), p. 36.

⁷ *Rollo*, p. 3.

⁸ CA *rollo*, p. 44.

⁹ *Rollo*, p. 3; records, p. 229.

¹⁰ Records, p. 192; *i.e.*, 3 pieces ₱100.00 bills; 2 pieces ₱50.00 bills; and 5 pieces ₱20.00 bills.

¹¹ Id. at 186.

The buy-bust team proceeded to Aquino's house located in Sitio Aling. Upon reaching Aquino's house, the civilian asset and PO3 Carvajal transacted with Aquino for the purchase of ₱500.00 worth of *shabu*. After payment and receipt of one plastic sachet of *shabu* by the civilian asset, PO3 Carvajal executed the pre-arranged signal of ringing the cell phone of the buy-bust team's back-up members. PO3 Carvajal then introduced himself as a police officer to Aquino and informed the latter that he was making an arrest. Aquino entered his house, causing PO3 Carvajal to effect the arrest inside Aquino's residence. PO3 Carvajal then frisked Aquino and recovered six plastic sachets of *shabu* and the buy-bust money inside Aquino's pocket. Also recovered were an aluminium tooter, a pair of scissors, three plastic sachets containing suspected *shabu* residue, one transparent plastic bag, and other pieces of plastic.¹² PO3 Carvajal made a Confiscation Receipt,¹³ which Aquino refused to sign, enumerating the items recovered by PO3 Carvajal, the *shabu* sold to the asset, and the buy-bust money.¹⁴ The buy-bust team and Aquino then proceeded to the Dagupan City police station where PO3 Carvajal reported the conduct of the buy-bust operation to the desk officer, PO2 Darius C. Ligeralde (PO2 Ligeralde) – who then entered the fact of such operation in the police blotter. PO3 Carvajal then turned the items recovered to the duty investigator, PO3 De Vera.¹⁵ PO3 De Vera prepared the Affidavit of Arrest¹⁶ executed by PO3 Carvajal, the Letter¹⁷ to the Dangerous Drugs Board dated April 23, 2008, and the Request¹⁸ for laboratory examination dated April 23, 2008. Prior to making the request for laboratory examination, PO3 Carvajal marked the sachet of *shabu* sold as "CAC" and the six sachets of *shabu* recovered from Aquino's possession as "CAC1" to "CAC6."¹⁹ PO3 De Vera also took pictures²⁰ of the accused with a *barangay kagawad* and the items recovered from the buy-bust operation. Thereafter, PO3 De Vera brought the items to the PNP crime laboratory for forensic examination.²¹ At 11:00 a.m. of April 23, 2008, P/Insp. Malojo received the items from PO3 De Vera. PS/Insp. Malojo prepared the Initial Laboratory Report²² which showed that the following items turned over by PO3 De Vera were positive for *shabu*:

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¹² Id. at 191.
¹³ Id. at 19.
¹⁴ TSN dated August 1, 2011, pp. 5-6.
¹⁵ *Rollo*, p. 4.
¹⁶ Records, pp. 7-8.
¹⁷ Id. at 190.
¹⁸ Id. at 114.
¹⁹ TSN dated August 1, 2011, pp. 2-3.
²⁰ Records, p. 191.
²¹ Id. at 230.
²² Id. at 113.

WTH

SPECIMEN/S SUBMITTED:

A1 to A7 – Seven (7) heat sealed transparent plastic sachets with markings each containing the following weights of white crystalline substance:

A1 – 0.1 gram A3 – 0.08 gram A5 –
0.1 gram A7 – 0.03 gram
A2 – 0.08 gram A4 – 0.09 gram A6 –
0.03 gram

B1 to B3 – Three (3) open and empty transparent plastic sachets with markings.

C1 and C2 – Two (2) used aluminium foils with markings.

x x x x²³

A final Chemistry Report²⁴ dated April 23, 2008 was prepared by PS/Insp. Malojo.

On the other hand, Aquino's defense was based on his testimony and that of his daughter, Rheyann Cruz (Rheyann).²⁵

Aquino alleged that on April 22, 2008, he was having lunch with his common-law wife and their five children (including Rheyann) inside their home when suddenly P/Insp. Llamas kicked the door open. A certain Police Officer Daroy cocked his gun. His wife and children were ordered by the police to leave the house. Rheyann, however, hid under the bed (*papag*). The police then tied Aquino's hands with a rope and made Aquino lie face down on the bed. P/Insp. Llamas then instructed Daroy to frisk Aquino. Daroy inserted his hand in the left back pocket of Aquino's shorts and later showed him sachets of *shabu*. Aquino only saw all the items that were allegedly seized from him at the police station when he was summoned from the detention cell. During the supposed buy-bust operation, Aquino claimed that PO3 Carvajal was not present.²⁶

Rheyann testified that she, Aquino, her mother, and a sibling were having lunch when someone kicked the door three times before men in SWAT uniform entered the house, arrested Aquino, tied his hands and made him lie face down on the bed. Rheyann averred that she saw a police officer holding five or six plastic sachets containing a white substance on his left hand and money, which were placed inside the back pocket of Aquino's shorts.²⁷

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²³ Id.
²⁴ Id. at 115.
²⁵ *Rollo*, p. 5.
²⁶ Id.
²⁷ Id.

Ruling of the Regional Trial Court

After evaluating the evidence for the prosecution and the defense, the RTC found Aquino guilty of violating Sections 5 and 11, Article II of R.A. 9165:

WHEREFORE, judgment is hereby rendered in:

1. CRIM. CASE NO. 2008-0215-D finding accused RENATO AQUINO y TADENA GUILTY beyond reasonable doubt with violation of Art. II, Sec. 11 of RA 9165 otherwise known as the Dangerous Drugs Act of 2002 and is hereby sentenced to suffer imprisonment of Twelve (12) years and One (1) day to Twenty (20) years and to pay a fine in the amount of Three Hundred Thousand (Php300,000.00) Pesos; and,

2. CRIM. CASE NO. 2008-0216-D finding accused **RENATO AQUINO y TADENA GUILTY** beyond reasonable doubt with Violation of Art. II, Sec. 5 of RA 9165 otherwise known as the Dangerous Drugs Act of 2002 and is hereby sentenced to suffer life imprisonment and to pay a fine in the amount of Five HUNDRED THOUSAND (Php500,000.00) PESOS.

The subject plastic sachets of shabu are hereby ordered disposed of in accordance with law.

With costs against said accused.

SO ORDERED.²⁸ (Emphasis in the original)

In convicting Aquino, the RTC gave more credence to the prosecution's version of the events on April 22, 2008. The RTC debunked Aquino's claim of a frame up and evidence planting because of the inconsistencies between the testimonies of Aquino and his daughter, Rheyann. In particular, the trial court pointed out that Aquino claimed to be eating with his wife and five children at the time of the arrest while Rheyann testified that she was eating with Aquino, her mother, and one sibling. Another contradiction noted by the trial court was Aquino's claim that he only saw the plastic sachet of *shabu* when he was already detained at the police station while Rheyann saw the police officers insert the plastic sachets at Aquino's back pocket inside their house. This is aside from the trial court's

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²⁸ Supra note 2 at 238.

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observation that Aquino was uncertain as to when he first saw the plastic sachets – with Aquino also narrating that he was lying face down on the bed inside his house when Daroy frisked him (Aquino) and showed Aquino plastic sachets of *shabu* after inserting his (Daroy's) hand in the left pocket of Aquino's shorts.²⁹

Aggrieved, Aquino appealed his conviction to the CA. In his Brief,³⁰ Aquino alleged that the items seized from him were inadmissible in evidence because the same were the result of an illegal search. Aquino also assailed the validity of the buy-bust operation because of the buy-bust team's failure to immediately conduct a physical inventory, take pictures of the items, and secure the presence of the insulating witnesses at the place where the items were seized. Quoting PO3 Carvajal and SPO1 Velasquez's respective testimonies, Aquino sought for his acquittal due to the buy-bust team's blatant disregard of the procedural requirements under Section 21 of R.A. 9165.³¹

The Office of the Solicitor General (OSG), appearing for the prosecution, maintained that the prosecution successfully proved all the elements of illegal sale and illegal possession of dangerous drugs. It also claimed that the warrantless search was valid for being the result of catching Aquino *in flagrante delicto* of selling drugs.³²

The OSG pointed out that despite the prosecution's failure to strictly comply with the procedural requirements under Section 21 of R.A. 9165, there was sufficient proof to show that the integrity and evidentiary value of the seized *shabu* were preserved through the following links in the chain of custody: (1) PO3 Carvajal's Confiscation Receipt; (2) PO3 Carvajal's continued possession of the seized items from Aquino's residence until their arrival at the police station; (3) police blotter indicating the events of the buy-bust operation and PO3 Carvajal's marking of the seized items with his initials; (4) pictures of the seized items with Aquino and a *barangay kagawad*; (5) PO3 Carvajal's endorsement of the seized items to PO3 De Vera; (6) PO3 De Vera's delivery of the seized items to PS/Insp. Malojo for laboratory examination; and (7) PO3 Carvajal's and PS/Insp. Malojo's identification of the seized items in open court.³³

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²⁹ Supra note 3 at 235-237.

³⁰ CA *rollo*, pp. 25-40.

³¹ Id. at 31-39.

³² Id. at 70-72.

³³ Id. at 73-75.

The OSG stressed that marking and inventory at the police station has been accepted as compliance with R.A. 9165.³⁴

Ruling of the Court of Appeals

In its Decision³⁵ dated October 12, 2016, the CA affirmed the RTC's Joint Decision. The CA found that all of the elements of illegal sale and possession of *shabu* were established.

The CA disagreed with Aquino and concluded that the prosecution substantially complied with the four links of the required chain of custody, as evidenced by the Confiscation Receipt and pictures of the accused with a *barangay kagawad* in the presence of the seized drugs and marked money. The appellate court went further and declared that even if there were no inventory or photographs, the seized items presented in evidence are still admissible since the prosecution was able to show that the integrity of the items seized from Aquino were preserved.³⁶

The CA found Aquino's defense of denial self-serving and unsupported by clear, convincing, and competent evidence. The CA concluded that absent any proof of ill will or malice on the part of the police officers, their testimonies are entitled to belief.³⁷

Aquino immediately filed a Notice of Appeal³⁸ from the CA's Decision dated October 12, 2016. Both the OSG³⁹ and Aquino⁴⁰ manifested that they will no longer file any supplemental brief.

Initial Ruling of the Court

In a Resolution⁴¹ dated July 1, 2019, this Court upheld the CA's factual findings, thereby affirming Aquino's conviction for both illegal sale and possession of drugs. In particular, the prosecution successfully proved: (1) the identity of the buyer and seller, the object, and consideration of the sale; (2) the delivery of the drugs sold and the payment therefor; and (3) Aquino's unauthorized and conscious possession of prohibited drugs.⁴²

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³⁴ Id at 75-76, citing *People v. Resurreccion*, 618 Phil. 520, 531-532 (2009).

³⁵ Supra note 2.

³⁶ CA *rollo*, pp. 102-105.

³⁷ Id. at 106.

³⁸ Id. at 118.

³⁹ *Rollo*, p. 30.

⁴⁰ Id. at 25.

⁴¹ Id. at 39-45.

⁴² Id. at 43.

As regards the *corpus delicti* of the offenses charged against Aquino, this Court held that the prosecution established its identity and every link in the chain of custody.⁴³

The Present Motion

Undeterred, Aquino filed the instant Motion for Reconsideration.⁴⁴ He insists that the prosecution failed to justify the buy-bust team's non-compliance with the requirements under Section 21 of R.A. 9165. Aquino pointed out: (1) PO3 Carvajal's lack of knowledge on the absence of the insulating witnesses despite PO3 Carvajal's role as the *poseur*-buyer; and (2) PO3 Carvajal's failure to indicate in the inventory (*i.e.*, confiscation receipt) that Aquino refused to sign the same and failed to swear to the said inventory before the administering officer. Aquino pointed out the buy-bust team's failure to record the buy-bust operation in the police blotter, despite such requirement under the coordinating instructions under the Revised Philippine National Police Manual on Anti-Illegal Drugs Operations and Investigation, casts doubt on the veracity of the alleged buy-bust operation.⁴⁵

Ruling of the Court

Aquino's acquittal is proper. The identity, integrity, and evidentiary value of the items allegedly purchased and seized from Aquino are suspect because of substantial unjustified gaps in the chain of custody.

To successfully prosecute the crime of illegal sale of dangerous drugs, the prosecution must be able to establish: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor.⁴⁶ On the other hand, a conviction for illegal possession of dangerous drugs shall be made if the prosecution proves that: (1) the accused is in possession of the object identified as a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.⁴⁷

Aside from proving the above-mentioned elements of the crime, the integrity and identity of the seized drug must be shown to have

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⁴³ Id. at 44.

⁴⁴ Id. at 46-53.

⁴⁵ Id. at 47-53.

⁴⁶ *People v. Padua*, G.R. No. 239781, February 5, 2020 (Resolution).

⁴⁷ See *People v. Manabat*, G.R. No. 242947, July 17, 2019.

been duly preserved because the dangerous drug seized from the accused constitutes the *corpus delicti* of the offenses.⁴⁸ The chain of custody rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed.⁴⁹

An accused shall only be convicted of the crime charged once it has been established with certainty that the drugs examined and presented in court were the very ones seized.⁵⁰ To satisfy this requirement, the procedure under Section 21⁵¹ of R.A. 9165 must be complied with. This provision was later amended by R.A. 10640 which took effect in 2014. Since the offense charged was allegedly committed on April 22, 2008, the apprehending team is required to conduct immediately a physical inventory and to photograph the seized items in the presence of the accused or from whom the items were seized, or his representative or counsel, as well as required witnesses, namely: a representative from the media and the Department of Justice (DOJ), and any elected public official. This must be so because with the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets of or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great.⁵²

In *People v. Manabat*,⁵³ this Court reaffirmed its ruling in *People v. Tomawis*⁵⁴ that “the presence of the three witnesses must be secured not only during the inventory but more importantly at the time

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⁴⁸ See *People v. Guzon*, 719 Phil. 441, 451 (2013).

⁴⁹ Id at 453.

⁵⁰ See *People v. Ramos*, G.R. No. 225325, August 28, 2019, citing *People v. Nandi*, 639 Phil. 134, 142 (2010).

⁵¹ 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;

x x x x

⁵² *People v. Santos, Jr.*, 562 Phil. 458, 471 (2007), citing *People v. Tan*, 401 Phil. 259, 273 (2000).

⁵³ G.R. No. 242947, July 17, 2019.

⁵⁴ 830 Phil. 385 (2018).

of the warrantless arrest. It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug.”⁵⁵ The purpose of the law in having these witnesses is to prevent or insulate against the planting of drugs. They are required to be at or near the intended place of arrest so they can readily witness the inventory and photograph-taking of the drugs “immediately after seizure and confiscation.”⁵⁶

The prosecution failed to show that the buy-bust team strictly complied with the procedure. Neither did it justify the entrapment team’s non-compliance.

The buy-bust team failed to explain why the required DOJ and media representatives, and elected public officials were not present during Aquino’s warrantless arrest nor did it show that earnest efforts were in fact exerted to secure or obtain their presence or attendance at that time. The buy-bust team could have easily gathered the required witnesses beforehand, considering that drug operations are, by their nature, a planned activity.

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.⁵⁷

These links should be established in the chain of custody of the confiscated item: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.⁵⁸

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⁵⁵ Id. at 409. Emphasis omitted; underscoring in the original.

⁵⁶ Supra note 51.

⁵⁷ *People v. Ismael*, 806 Phil. 21, 30-31 (2017), citing *Mallillin v. People*, 576 Phil. 576, 587 (2008).

⁵⁸ *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

The prosecution failed to prove the identity of the *corpus delicti* because of a broken link in the chain of custody.⁵⁹

The *first* crucial link in the chain of custody starts with the seizure from Aquino of the dangerous drug and its subsequent marking. Under the law, such marking should have been done immediately after confiscation and in the presence of the accused or his representative. While it is true that the sachets containing *shabu* presented in court bore the marks “CAC” and “CAC1” through “CAC6,” there was no proof as to when marking was done. At most, PO3 Carvajal testified that he marked the *shabu* prior to making a request for laboratory examination.⁶⁰ The Blotter Entry⁶¹ made on April 23, 2008 at 1:45 p.m. after the conduct of the buy-bust operation and the Confiscation Receipt⁶² prepared by PO3 Carvajal did not mention or specify the markings made on the sachet sold to the civilian asset and the items recovered from Aquino. Neither were the markings allegedly made by PO3 Carvajal specified in PS/Insp. Malojo’s Initial Laboratory Report⁶³ and final Chemistry Report.⁶⁴ When PS/Insp. Malojo took the witness stand to identify the seven sachets subject of the instant criminal cases, she only identified the markings she made (*i.e.*, A1 through A7 and B1 through B3).⁶⁵ PS/Insp. Malojo’s testimony, initial chemistry report, and final chemistry report made no mention of PO3 Carvajal’s CAC and CAC 1 to CAC 6 markings.

The act of marking alone will not suffice. It must be proven that the same was done immediately after seizure to ensure that the items presented in court bearing the alleged marks were the same ones taken from or sold by the accused in order to prevent the possibility of switching, planting, or contamination of evidence. “A failure to mark at the time of taking of initial custody imperils the integrity of the chain of custody that the law requires.”⁶⁶ Moreover, it is worthy to note that the weights of the sachets stated in the Certification,⁶⁷ Affidavit of Arrest,⁶⁸ and Chemistry Reports⁶⁹ were inconsistent, to wit:

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⁵⁹ See *People v. Carlit*, 816 Phil. 940, 952-953 (2017), citing *People v. Bartolini*, 791 Phil. 626, 638 (2016).

⁶⁰ TSN dated July 23, 2010, p. 11.

⁶¹ Records, p. 186.

⁶² Id. at 187.

⁶³ Id. at 113.

⁶⁴ Id. at 115.

⁶⁵ TSN dated May 30, 2011, p. 5.

⁶⁶ *People v. Zakaria*, 699 Phil. 367, 381 (2012).

⁶⁷ Records, p. 186.

⁶⁸ Id. at 7-8.

⁶⁹ Id. at 113, 115.

Sachets		Certification (Blotter Entry)	Affidavit of Arrest	Initial and Final Chemistry Report
Subject of the illegal sale	1	0.2g	0.2g	0.1g
Subject of illegal possession	2	0.08g	0.08g	0.08g
	3	0.08g	0.08g	0.08g
	4	0.08g	0.08g	0.09g
	5	0.1g	0.1g	0.1g
	6	0.01g	0.1g	0.03g
	7	0.08g	0.08g	0.03g
TOTAL weight of sachets subject of illegal possession		0.43g	0.52g	0.41

The variance of the sachets' weights may indicate that switching, planting, or contamination of evidence occurred. The prosecution failed to prove that the sachets recovered from the buy-bust operation were the same sachets submitted to PS/Insp. Malojo for forensic examination.

Aside from the lapses in marking the items subject of the case, the buy-bust team also failed to conduct a property inventory of the items seized. Under Section 21 of R.A. 9165, not only must the inventory be done in the presence of insulating witnesses (*i.e.*, a media representative, DOJ representative, and any elected public official), but the inventory must be signed by the accused or his/her representative or counsel, and the insulating witnesses.⁷⁰ The buy-bust team did not comply with such requirement. The inventory, *i.e.*, Confiscation Receipt, was made by PO3 Carvajal allegedly in the presence of Aquino but: (1) without the required insulating witnesses; and (2) without the signature of Aquino. Albeit PO3 Carvajal claims that Aquino refused to sign the same,⁷¹ such was unsubstantiated. The Confiscation Receipt failed to state that Aquino refused to sign.

With the integrity of the items subject of the illegal sale and possession suspect, coupled with Aquino's and Rheyann's testimony that evidence was planted by a certain Daroy into Aquino's shorts back pocket, the prosecution failed to show that the items turned over to PO3 De Vera, which were surrendered to PS/Insp. Malojo for forensic examination, and which PS/Insp. Malojo presented to the trial court, were items actually sold or possessed by Aquino.

"The prosecution's sweeping guarantees as to the identity and integrity of the seized drug will not secure a conviction. While law enforcers enjoy the presumption of regularity in the performance of

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⁷⁰ Supra note 51.

⁷¹ TSN dated August 1, 2011, pp. 5-6.

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their duties, this presumption cannot prevail over the constitutional right of the accused to be presumed innocent and it cannot by itself constitute proof of guilt beyond reasonable doubt. The presumption of regularity is merely just that – a mere presumption disputable by contrary proof and which when challenged by evidence cannot be regarded as binding truth.”⁷²

Therefore, the guilt of the accused-appellant was not proven with moral certainty.


WHEREFORE, the motion for reconsideration is **GRANTED**. The Decision dated October 12, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06942 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Renato Aquino y Tadena is **ACQUITTED** on reasonable doubt. The Director of the Bureau of Corrections is **ORDERED** to cause his **IMMEDIATE RELEASE**, unless he is being lawfully held in custody for another cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The said Director General is **DIRECTED** to **REPORT** the action taken to this Court, within five (5) days from receipt of this Resolution.


Let entry of judgment be issued immediately.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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⁷² *People v. Hementiza*, 807 Phil. 1017, 1033-1034 (2017).

The Solicitor General
134 Amorsolo Street, Legaspi Village
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Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 06942)

The Hon. Presiding Judge
Regional Trial Court, Branch 44
2400 Dagupan City
(Crim. Case Nos. 2008-0215-D &
2008-0216-D)

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Supreme Court
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No. 12-7-1-SC)

Philippine Judicial Academy (x)
Supreme Court

Judgment Division (x)
Supreme Court



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