



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated March 3, 2021, which reads as follows:*

**G.R. No. 239780 (People of the Philippines v. Ariel Banayat y Arciaga a.k.a Ariel).** — This appeal assails the Decision<sup>1</sup> dated July 27, 2017 and the Resolution<sup>2</sup> dated January 8, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07102 affirming the conviction of Ariel Banayat y Arciaga a.k.a Ariel (appellant) for violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165<sup>3</sup> involving the alleged sale and possession of Marijuana, a dangerous drug.

**The Proceedings Before the Trial Court**

**The Charges**

Two separate Information for violations of RA 9165 were filed against appellant, viz.:

Criminal Case No. 08-729

That on or about the 17th day [of] September, 2008, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to another Marijuana fruiting tops, a dangerous drug, contained in five (5) heat-sealed transparent plastic sachets weighing 2.85 grams, in violation of the above-cited law.

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<sup>1</sup> Penned by Associate Justice Ramon M. Baro, Jr., with Associate Justices Samuel H. Gauran (now a Member of the Court) and Josep Y. Lopez (now a Member of the Court), concurring; *rollo*, pp. 2-16.

<sup>2</sup> *CA rollo*, pp. 234-235.

<sup>3</sup> Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT No. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on June 7, 2002.

CONTRARY TO LAW.<sup>4</sup>

Criminal Case No. 08-730

That on or about the 17th day [of] September, 2008, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control, dangerous drug, Marijuana fruiting tops, weighing a total of 8.61 grams contained in fifteen (15) heat-sealed transparent plastic sachets, in violation of the above-cited law.

CONTRARY TO LAW.<sup>5</sup>

On arraignment, appellant pleaded *not guilty* to the offenses charged.<sup>6</sup>

During pre-trial, parties stipulated on the following main points:

1. Police Senior Inspector Abraham V. Tecson (PSI Tecson) is a Forensic Chemist of PNP Southern Police District Crime Laboratory Office, Makati City as of September 17, 2008; and
2. Pursuant to a request for laboratory examination, PSI Tecson subjected the submitted specimen to laboratory examination and the same yielded positive for the presence of Marijuana, a dangerous drug.<sup>7</sup>

During trial, PO3 Salvador Genova (PO3 Genova) and Chct Ferrer (Ferrer) testified for the prosecution. On the other hand, appellant and his son, Arlan Arciaga Banayat (Arlan) testified for the defense.<sup>8</sup>

**The Prosecution's Version**

Ferrer and PO3 Genova were operatives of Drug Abuse Prevention and Control Office (DAPCO) and Station Anti-Illegal Drugs-Special Operation Task Group (SAID-SOTG) of the Muntinlupa City Police, respectively. Ferrer was a civilian operative of DAPCO and a psychologist by profession, while PO3 Genova was a police operative of the SAID-SOTG.<sup>9</sup>

On September 17, 2008, at 10:00 in the morning, PS Supt. Alfredo Valdez ordered for the conduct of monitoring, casing and possible buy-bust

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<sup>4</sup> *Rollo*, pp. 2-3.

<sup>5</sup> *Id.* at 3.

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

<sup>7</sup> *CA rollo*, p. 15.

<sup>8</sup> *Id.* at 143.

<sup>9</sup> *Rollo*, p. 3.

operation against appellant, who was reportedly engaged in rampant selling of marijuana at Bruger Subdivision, Brgy. Putatan, Muntinlupa City. The reports against appellant were received thru the DAPCO hotline.<sup>10</sup>

After verifying the information from reliable sources, operatives sought the help of an informant (police asset) who knew the whereabouts of appellant. Subsequently, a team was organized wherein SPO4 Faustino Atienza (SPO4 Atienza) was designated as Assistant Team Leader. SPO4 Atienza designated Ferrer as *poseur*-buyer and PO3 Genova as police back-up.<sup>11</sup>

PO3 Genova coordinated with the Philippine Drug Enforcement Agency (PDEA). After receiving the Pre-Operational Report and Coordination Form, PDEA issued a Certificate of Coordination.<sup>12</sup>

Ferrer was provided with a P100.00 bill as buy-bust money with serial number "JK184183" and markings "CF" at the bottom part thereof. Thereafter, the team proceeded with the operation at 6:30 in the evening.<sup>13</sup>

At 6:40 in the evening, Ferrer and the rest of the team arrived at the tricycle terminal at the corner of Bruger Subdivision where appellant waited for his turn to ply his route. The police asset pointed to appellant to help Ferrer familiarize with the latter's appearance. Ferrer and the police asset went ahead of the rest of the team and walked toward appellant. The police asset casually greeted appellant and introduced Ferrer as his "*barkada*" who wanted to buy marijuana.<sup>14</sup>

When appellant asked how much they wanted to buy, Ferrer gave him the P100.00 marked money. Appellant took out five (5) pieces of transparent plastic sachets, containing marijuana, from his pocket and handed the same to Ferrer. Ferrer accepted the five (5) plastic sachets and after scrutinizing the same, Ferrer removed his cap, which was the pre-arranged signal for the consummation of the illegal sale.

Ferrer introduced himself to appellant as a DAPCO operative. In less than a minute, PO3 Genova approached them and introduced himself to appellant as a police operative of SAID-SOTG. He informed appellant of his constitutional rights as well as the violations he committed. He then frisked appellant and recovered 15 more transparent plastic sachets of marijuana from his left pocket. The buy-bust money was likewise recovered by PO3 Genova from appellant.<sup>15</sup>

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<sup>10</sup> Id. at 3-4.

<sup>11</sup> Id. at 4.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> TSN, September 1, 2010, p. 11.

Thereafter, they brought appellant and the seized items to the SAID-SOTG headquarters. Ferrer maintained possession of the five (5) sachets of marijuana subject of the buy-bust operation, while PO3 Genova maintained possession of the 15 sachets of marijuana he recovered from appellant.<sup>16</sup>

At the headquarters, all the seized items were placed on top of a table for marking, inventory, and photography of the seized items, and for the preparation of the Spot Report by PO2 Dionisio G. Gastanes, Jr. (PO2 Gastanes, Jr.).<sup>17</sup> Ferrer marked each one of the 20 sachets of marijuana. He then marked the five (5) sachets subject of the sale "AB-A1" to "AB-A5" while he marked the 15 sachets recovered by PO3 Genova "AB-B1" to "AB-B15." Subsequently, inventory and photographs of the seized items were made in the presence of appellant and media representatives. PO3 Genova, however, failed to have the media representatives sign the inventory and forgot to sign the Certificate of Inventory himself because they had been avoiding the media then. The Spot Report was later prepared by PO2 Gastanes, Jr.<sup>18</sup>

Thereafter, Ferrer and PO3 Genova brought the seized items to the crime laboratory for examination. After turning over the seized items to the crime laboratory, they returned to the SAID-SOTG headquarters and executed an Affidavit of Arrest.<sup>19</sup>

The seized items were subjected to laboratory examination and yielded positive results for marijuana, a dangerous drug.<sup>20</sup>

### **The Defense's Version**

Appellant interposed denial and frame-up. He claimed that on September 16, 2008, at 5:00 in the afternoon, he was plying his usual route going to Bruger Subdivision when an L-300 van overtook and sideswiped his tricycle. He chased the van and caught up with it at an intersection in the corner of Bruger Subdivision. He approached and talked to the driver, who was Ferrer. An altercation ensued and a mob of tricycle drivers approached them. Out of fear, Ferrer sped away.<sup>21</sup>

Appellant went back to the tricycle terminal as his son was there. However, the L-300 van came back and the driver with whom he had an altercation, alighted from the van together with four (4) other men in civilian clothes. They held appellant's arms and frisked him while another one boarded his tricycle. The men introduced themselves as men from DAPCO and proceeded to forcibly board him inside their van. Appellant's son,

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<sup>16</sup> *Rollo*, p. 5.

<sup>17</sup> TSN, August 20, 2009, p. 25.

<sup>18</sup> *Rollo*, p. 5.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

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

Arlan, asked the men where they were taking his father but was told to back off.<sup>22</sup>

Inside the van, one of the men punched appellant in the stomach and uttered, "*Kanina ang tapang-tapang mo, bakit ngayon ayaw mo ilabas ang tapang mo?*" Appellant kept quiet to avoid further getting hurt. He was then brought to the Criminal Investigation Department at the back of the City Hall. Ferrer and PO3 Genova brought out plastic sachets containing dried marijuana leaves and forced appellant to admit that the same came from his pocket. Appellant vehemently denied such claim but the two insisted on his admission. Ferrer later marked the plastic sachets.<sup>23</sup>

Appellant likewise denied the presence of any representative from the media, the Department of Justice, and any government official.<sup>24</sup>

Appellant was detained and in the afternoon of the following day or on September 17, 2008, he was brought to the Office of the City Prosecutor where he was informed that he was being charged with possession of illegal drugs.<sup>25</sup>

On the other hand, Arlan corroborated appellant's testimony on material points. He maintained that his father is a responsible man.<sup>26</sup>

### **The Trial Court's Ruling**

As borne by its Decision<sup>27</sup> dated September 25, 2014, the trial court rendered a verdict of conviction, viz.:

WHEREFORE, premises considered and finding the accused GUILTY beyond reasonable doubt, ARIEL BANAYAT y ARCIAGA is sentenced:

- a. In Crim. Case No. 08-729 for Violation of Sec. 5 of R.A. 9165 to suffer the penalty of Life Imprisonment and to pay a Fine of Php500,000.00; and
- b. In Crim. Case No. 08-730 for Violation of Sec. 11 of R.A. 9165, to suffer an Indeterminate Penalty of Imprisonment of Twelve (12) years and One (1) day as minimum to Fourteen (14) years as maximum and to pay a Fine of Php300,000.00.

The drug evidence are confiscated and ordered transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

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<sup>22</sup> Id. at 5-6.

<sup>23</sup> Id. at 6.

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Id. at 5.

<sup>27</sup> Penned by Presiding Judge Juanita T. Guerrero; CA rollo, pp. 14-26.

Let a commitment order be issued committing accused ARIEL BANAYAT y ARCIAGA to the New Bilibid Prisons (NBP) for the service of his sentence pending any appeal that he may file in these cases.

SO ORDERED.<sup>28</sup>

The trial court found the prosecution to have established all the elements of illegal sale and possession of dangerous drugs with certainty.<sup>29</sup> It further held that while PO3 Genova proffered insufficient explanation for their failure to sign the Certificate of Inventory and have the media representatives sign the same, the police officers nonetheless took some measures to preserve the integrity of the seized illegal drugs.<sup>30</sup>

### The CA's Ruling

The CA affirmed appellant's conviction through the assailed Decision<sup>31</sup> dated July 27, 2017 and Resolution<sup>32</sup> dated January 8, 2018. It found that all the elements of illegal sale and possession of dangerous drugs are present.<sup>33</sup> It gave more credence to the testimonies of the prosecution witnesses over appellant's defense of denial and frame-up. While Ferrer and PO3 Genova failed to sign the Certificate of Inventory and have the members of the media sign the same, such omission was not fatal since the buy-bust team was able to preserve the integrity and evidentiary value of the seized items.<sup>34</sup>

Appellant moved for reconsideration but the same was denied by the CA.<sup>35</sup>

### The Present Appeal

Appellant now seeks affirmative relief from this Court and pleads anew for his acquittal.

For purposes of this appeal, appellant filed his Supplemental Brief.<sup>36</sup> On the other hand, having discussed all the matters pertinent to this case in its *Brief for the Appellee* filed before the CA, appellee adopted the same as its supplemental brief.<sup>37</sup>

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<sup>28</sup> Id. at 26.

<sup>29</sup> Id. at 22 and 24.

<sup>30</sup> Id. at 25.

<sup>31</sup> *Rollo*, pp. 2-16.

<sup>32</sup> *CA rollo*, pp. 234-235.

<sup>33</sup> *Rollo*, pp. 8-10.

<sup>34</sup> Id. at 13.

<sup>35</sup> *CA rollo*, pp. 234-235.

<sup>36</sup> *Rollo*, pp. 32-44.

<sup>37</sup> Id. at 25-26.

### Issue

Did the CA err in affirming the trial court's verdict of conviction despite the attendant procedural deficiencies in the chain of custody of the seized illegal drugs?

### Our Ruling

The appeal is meritorious.

At the outset, *We* emphasize that an appeal in a criminal case throws the whole case open for review and it is the duty of the appellate court to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.<sup>38</sup>

Appellant is charged with illegal sale and possession of dangerous drugs allegedly committed on September 17, 2008. The governing law, therefore, is RA 9165 before its amendment in 2014.<sup>39</sup>

In illegal drug cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the substance sold by, and those found in the possession of appellant are the same substance presented in court.<sup>40</sup>

Section 21 of RA 9165 prescribes the standard in preserving the *corpus delicti* in illegal drug cases, *viz.*:<sup>41</sup>

**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;**

<sup>38</sup> See *Sun Juan v. People*, 664 Phil. 547, 559 (2011).

<sup>39</sup> *People v. Dela Torre*, G.R. No. 225789, July 29, 2019.

<sup>40</sup> See *People v. Nazareno*, G.R. No. 231875, July 29, 2019.

<sup>41</sup> *People v. Dela Torre*, *supra*.

(Emphasis added)

The Implementing Rules and Regulations (IRR) of RA 9165 further commands.<sup>42</sup>

**Section 21.** (a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, **physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.** (Emphases added)

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody: *first*, the seizure, marking, and inventory of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.<sup>43</sup>

This is the chain of custody rule which guards against tampering, alteration, or substitution of the seized illegal drugs.<sup>44</sup>

A judicious review of the records of the case reveals a broken chain of custody of the seized illegal drugs. The first and fourth links here were breached.

### **First link**

To begin with, the buy-bust team failed to comply with the three-witness rule which requires the presence of (1) a media representative, (2) a Department of Justice (DOJ) representative, and (3) an elected public official, at the time of the warrantless arrest and during the inventory and photograph taking of the seized items.<sup>45</sup>

Nowhere in the records of the case does it appear that the required

<sup>42</sup> Id.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> See *People v. Tomawis*, 830 Phil. 385, 404-405 (2018).



insulating witnesses were present during the buy-bust operation. In fact, the prosecution alleged that among the three (3) required witnesses, only media representatives arrived during the conduct of inventory of the seized items.

Ferrer testified:

Q Why was this Inventory not signed by the person who prepared this Inventory?

A Because the media arrived then PO1 (sic) Genova did not sign the Inventory, sir.<sup>46</sup>

On the other hand, PO3 Genova testified:

Q Where did you conduct the inventory?

A At SAID Office, sir.

Q Was the accused present when this inventory was made?

A Yes, sir.

x x x x

Q How about the member of any elected official (sic), all government officials were there (sic) present when the inventory was made?

A None, sir.

Q Who else was present when the inventory was made?

A There was a (sic) people from media who arrived but we were not able to make him sign the document, sir.

Q He is a representative of which media, if you recall, Mr. Witness?

A I could only recall of a certain Jennifer from ABS-CBN and a person from GMA, sir.<sup>47</sup>

In *People v. Tomavis*, the Court held that the practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so – and “calling them in” to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished – does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.<sup>48</sup>

The presence of the three required witnesses was precisely necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity.<sup>49</sup> Surely, Section 21 of the IRR provides for a saving clause. This saving clause provides that non-compliance with the procedural requirements, under justifiable grounds so long as the integrity and evidentiary value of the seized items are properly preserved, shall not

<sup>46</sup> ISN, August 20, 2009, p. 32.

<sup>47</sup> ISN, June 6, 2012, p. 15.

<sup>48</sup> See *People v. Tomavis*, supra note 45, at 409.

<sup>49</sup> See *People v. Mendoza*, 736 Phil. 749, 761-762 (2014).

render void and invalid the seizures of and custody over the seized items. However, police officers are compelled not only to state the reasons for their non-compliance, they must also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.<sup>50</sup>

Here, the prosecution did not even attempt to establish that the buy-bust team tried to secure the presence of all, or even just one of, the required witnesses during the buy-bust operation. Moreso, the buy-bust team failed to acknowledge this deficiency.

The unjustified absence here of all the required insulating witnesses during the buy-bust operation and inventory, and lack of earnest efforts to secure their complete presence put into question the identity and integrity of the seized illegal drugs.<sup>51</sup>

We also note here that the conduct of inventory and photograph of the seized items were not made at the very place of arrest but at the SAID-SOTG headquarters. Nevertheless, the Court is not oblivious that the marking and inventory of the seized items may be made at the nearest police station or office of the arresting officers. However, this is acceptable only when there is a valid justification for such deviation. In this case, however, the buy-bust team failed to acknowledge and explain their failure.

Additionally, the Certificate of Inventory was left unsigned by PO3 Genova, appellant, and the alleged witnesses from the media. PO3 Genova explained that he forgot to sign the Certificate of Inventory because he was afraid of people from the media, *viz.*:

Q Mr. Witness, I'm kindly showing to you the Certificate of Inventory marked as Exhibit "D" for the prosecution. Can you kindly go over this and kindly explain as (sic) why there is no signature in the Certificate of Inventory.

A We were afraid of the media people at that time, sir that's why we forgot to sign the inventory, sir.

Q But why would you be afraid of the media, you are just only doing your job?

A Most of us we're avoiding the media because we were misquote (sic), sir.<sup>52</sup>

x x x x

Q But Mr. Witness, you oath (sic) to know that this Certificate of Inventory should be signed by the arresting officers and witnesses as required by law?

A Yes, sir.<sup>53</sup>

<sup>50</sup> See *People v. Crispo*, 828 Phil. 416, 436 (2018).

<sup>51</sup> See *People v. Tayan*, G.R. No. 242160, July 8, 2019.

<sup>52</sup> TSN, June 6, 2012, p. 18.

<sup>53</sup> *Id.* at 19.

The Certificate of Inventory being unsigned by anyone, it appears that the conduct of inventory, if at all made, was not done in the presence of appellant and the alleged media representatives. What bolsters this probability is the fact that Ferrer and PO3 Genova never mentioned in their *Malayang Pinagsamang Sinumpaang Salaysay*<sup>54</sup> that the inventory of the seized items was made in the presence of appellant and media representatives.<sup>55</sup>

Too, Ferrer testified that PO3 Genova failed to sign the Certificate of Inventory because the media representatives arrived. It appears that when the media representatives allegedly arrived at the SAID-SOTG headquarters, the inventory was already made and the only thing left for PO3 Genova to do is sign the Certificate of Inventory. This stressed more doubt on the prosecution's claim that the inventory of the seized items was done in the presence of appellant and media representatives.

The conduct of physical inventory in **full view of the appellant and the required witnesses** cannot be brushed aside as a simple procedural technicality. While non-compliance is allowed, the same ought to be justified. Unfortunately, the buy-bust team here could not have offered a justification for this non-compliance considering it has the contrary claim of having conducted the inventory in the presence of appellant and media representatives.<sup>56</sup>

In fine, the first link here is not only inherently weak but was in fact breached casting serious doubts on the identity and evidentiary value of the *corpus delicti*.

#### **Fourth link**

In *People v. Omamos*,<sup>57</sup> the Court emphasized that the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.

Further, in *People v. Ubungen*,<sup>58</sup> the Court emphasized that absent any testimony regarding the management, storage, and preservation of the illegal drug allegedly seized after its qualitative examination, the fourth link in the chain of custody of the illegal drug could not be reasonably established.

Here, the parties dispensed with the testimony of PSI Tecson in view of the stipulations entered into by the parties during pre-trial. Unfortunately, the parties failed to stipulate on the method of analysis which PSI Tecson utilized in determining the chemical composition of the seized items.

<sup>54</sup> RTC records, pp. 224-225.

<sup>55</sup> See *People v. Ferrer*, G.R. No. 213914, June 6, 2018.

<sup>56</sup> See *People v. Dela Victoria*, 829 Phil. 675, 689 (2018).

<sup>57</sup> G.R. No. 223036, July 10, 2019.

<sup>58</sup> 836 Phil. 888, 902 (2018).

Neither was there any explanation how PSI Tecson handled the seized items after laboratory examination until the same were submitted to the trial court as evidence. Thus, the fourth link here in the chain of custody of the seized illegal drugs could not be reasonably established.

In fine, the fourth link is not only breached but missing.

Indeed, the unjustified repeated breach of the chain of custody here had cast serious doubts on the identity and integrity of the *corpus delicti*.<sup>59</sup> Breaches of the procedure outlined in Section 21, Article II of RA 9165 committed by the police officers, left unjustified, or unacknowledged and unexplained by the State, as in this case, militate against a finding of guilt beyond reasonable doubt against the accused as the integrity and evidentiary value of the *corpus delicti* had been compromised.<sup>60</sup> It cannot be said with certainty that the illegal drug presented in court is the very same item seized from appellant.

The presumption of regularity in the performance of official duties in favor of the police officers will not save the prosecution's case, given the foregoing procedural lapses. The presumption stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty. And even in that instance, the presumption of regularity will never be stronger than the presumption of innocence in favor of the accused. Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right of an accused.<sup>61</sup>

It is well-settled that an accused shall be presumed innocent until the contrary is proved beyond reasonable doubt. The burden lies with the prosecution to overcome this presumption of innocence by presenting proof beyond reasonable doubt. The prosecution must rest on its own merits and must not rely on the weakness of the defense. If the prosecution fails to meet the required evidence, the defense does not even need to present evidence in its own behalf; the presumption prevails and the accused should be acquitted.<sup>62</sup>

Considering that the prosecution failed to prove appellant's guilt beyond reasonable doubt, his acquittal is thus perforce in order.

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated July 27, 2017 and Resolution dated January 8, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 07102 are hereby **REVERSED** and **SET ASIDE**. Appellant Ariel Banayat y Arciaga a.k.a Ariel is **ACQUITTED** of the offenses charged.

<sup>59</sup> *Jacson v. People*, G.R. No. 199644, June 19, 2019.

<sup>60</sup> See *People v. Cabezado*, G.R. No. 232357, November 28, 2018.

<sup>61</sup> *People v. Diputado*, 813 Phil. 160 (2017).

<sup>62</sup> See *id.*

The Director General of the Bureau of Corrections, Muntinlupa City is **ORDERED** to: (a) cause the immediate release of Ariel Banayat y Arciaga a.k.a Ariel, unless he is being held in custody for any other lawful reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued.

**SO ORDERED.** (*Leonen, J., on leave; Lopez, J., no part; Curandang, J., additional member per Raffle dated February 17, 2021*).

By authority of the Court:

*MisproC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*

Atty. Reynan Retazo  
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c/o The Director General  
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The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 204, 1770 Muntinlupa City  
(Crim. Case Nos. 08-729 & 08-730)

The Director General  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

The Superintendent  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
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