



Mis. PDC Batt  
MISAELO DOMINGO C. BATTUNG III  
Division Clerk of Court  
Third Division

SEP 28 2020

Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE  
RECORDED  
SEP 30 2020  
BY: R. SANTIAGO  
TIME: 9:45

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 235658

Present:

- versus -

LEONEN, J., *Chairperson*,  
GESMUNDO,  
CARANDANG,  
ZALAMEDA, and  
GAERLAN,\* *JJ.*

RAUL DEL ROSARIO y  
NIEBRES,

Promulgated:

Accused-Appellant.

June 22, 2020

Mis. PDC Batt

X ----- X

DECISION

GESMUNDO, J:

This is an Appeal<sup>1</sup> from the February 22, 2017 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07680. The CA affirmed the July 22, 2015 Judgment<sup>3</sup> of the Regional Trial Court of Calamba City, Branch 37 (RTC) in Criminal Case Nos. 15745-2008-C and 15746-2008-C, finding Raul Del Rosario y Niebres (*appellant*) guilty beyond reasonable doubt of the illegal sale and possession of dangerous drugs under Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

\* On Leave.

<sup>1</sup> *Rollo*, pp. 22-23; Notice of Appeal.

<sup>2</sup> *Id.* at 2-21.

<sup>3</sup> *CA rollo*, pp. 22-32 and 72-82; penned by Presiding Judge Caesar C. Buenagua.

### The Antecedents

In an Information filed before the RTC, appellant was charged with violation of Sec. 5, Article II of R.A. No. 9165 or Illegal Sale of Dangerous Drugs. The accusatory portion of the Information reads:

Criminal Case No. 15745-2008-C

That on or about 11:00 p.m. of 21 April 2008 at Brgy. Pansol, Calamba City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully, and feloniously sell and deliver to a poseur buyer one (1) transparent plastic sachet containing Methamphetamine Hydrochloride, otherwise known as "shabu", weighing 0.01 gram, in violation of the aforementioned provision of law.

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

In another Information, appellant was charged with violation of Sec. 11, Article II of R.A. No. 9165 or Illegal Possession of Dangerous Drugs. The accusatory portion of the Information reads:

Criminal Case No. 15746-2008-C

That on or about 11:00 p.m. of 21 April 2008 at Brgy. Pansol, Calamba City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously, possess a quantity of Methamphetamine Hydrochloride, having a total weight of 0.09 grams.

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

During his arraignment on May 14, 2008,<sup>6</sup> appellant pleaded "not guilty" to the charges. Thereafter, trial ensued.

The prosecution presented Forensic Chemist Lalaine Ong Rodrigo (*FC Rodrigo*) and the arresting officer, Senior Police Officer I Apolonio Naredo (*SPO1 Naredo*).

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<sup>4</sup> Id. at 22.

<sup>5</sup> Id.

<sup>6</sup> *Rollo*, p. 3; CA Decision.

*Version of the Prosecution*

On April 21, 2008, a confidential informant reported to SPO1 Naredo that accused was engaged in illegal drug activities at Barangay Pansol, Calamba City. Police Inspector Alex Marasigan, the team leader of SPO1 Naredo, thus formed a buy-bust team consisting of SPO1 Naredo, Senior Police Officer II Melvin Llanes, Police Officer II Carpio, Police Officer II Arnel Sanque, the confidential informant, and himself. The confidential informant was designated as the *poseur-buyer*.<sup>7</sup>

At 11:00 o'clock in the evening of the same day, the buy-bust team proceeded to the billiard hall at Purok 7, Brgy. Pansol. SPO1 Naredo positioned himself about five (5) meters away from the confidential informant. SPO1 Naredo saw the confidential informant hand to appellant the marked money amounting to ₱200.00. Appellant then gave the confidential informant a plastic sachet with white crystalline substance. After the confidential informant gave the pre-arranged signal, SPO1 Naredo approached appellant and introduced himself as a police officer. He arrested appellant and recovered the marked money. SPO1 Naredo conducted a preventive search by instructing appellant to empty the contents of his pocket. Appellant subsequently brought out three (3) small plastic sachets with white crystalline substance. The confidential informant also handed the plastic sachet bought from appellant to SPO1 Naredo. SPO1 Naredo thus marked the plastic sachet bought by the confidential informant with "ACN-RND" and those in appellant's possession with "ACN-RND-1," "ACN-RND-2," and "ACN-RND-3." Appellant was thereafter brought to the police station.<sup>8</sup>

At the police station, the buy-bust team proceeded to make a request for laboratory examination of the seized evidence from appellant. Thereafter, Police Officer I Richard Cruz (*PO1 Cruz*), together with SPO1 Naredo, turned over the seized evidence to the crime laboratory.<sup>9</sup> A certain SPO1 Agustin of the crime laboratory received the same from PO1 Cruz.<sup>10</sup> FC Rodrigo conducted the forensic examination and prepared Chemistry Report No. D-174-08. In said Report, FC Rodrigo confirmed that the plastic sachets confiscated and bought from appellant were positive for *shabu*. FC Rodrigo placed her markings on the plastic sachets after the forensic examination.<sup>11</sup>

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<sup>7</sup> Id. at 4.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id. at 10.

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

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*Version of the Defense*

Appellant testified that, around 8:00 o'clock in the evening of April 21, 2008, two (2) men suddenly arrived at his hut, restrained him, and searched the premises. Finding nothing, they forced appellant to board a passenger jeep. Appellant was taken to a house where he was asked his name and address. He was thereafter picked up by a police mobile and brought to the barangay hall. At the barangay hall, he was instructed to sign a document. Afterwards, appellant was escorted back to the house where he was previously brought. There, he was shown a plastic sachet with white crystalline substance and money. Appellant was then transferred to the city hall where he was detained. He was informed that he was being charged with the illegal sale and possession of dangerous drugs.<sup>12</sup>

Appellant's neighbor, Rosita Mangundayao (*Mangundayao*), testified that, on April 21, 2008, at around 11:00 o'clock in the evening, she heard a noise coming from appellant's hut, which was merely 1 ½ arm's length away from her house. Mangundayao looked through her window and saw appellant resting when two (2) men suddenly came in and searched the hut. She only heard the noises made by the three (3) men but she did not audibly hear their conversation. Thereafter, she saw appellant being handcuffed.<sup>13</sup>

**The RTC Ruling**

In its July 22, 2015 Judgment, the RTC found appellant guilty beyond reasonable doubt of the illegal sale and possession of dangerous drugs. In Criminal Case No. 15745-2008-C, appellant was sentenced to suffer the penalty of life imprisonment and ordered to pay a fine of ₱500,000.00. In Criminal Case No. 15746-2008-C, appellant was sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and ordered to pay a fine of ₱300,000.00.<sup>14</sup>

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<sup>12</sup> Id. at 6.

<sup>13</sup> Id. at 6-7.

<sup>14</sup> CA rollo, p. 32.

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The RTC ruled that the testimony of SPO1 Naredo carried with it the presumption of regularity in the performance of official functions. It gave no credence to appellant's defense of denial or frame-up since it could be easily concocted and was a common and standard defense ploy. The RTC also underscored the inconsistent testimonies of the defense witnesses as to the time of appellant's arrest at his hut by the two (2) unidentified men.<sup>15</sup>

The RTC held that all of the elements of the offenses were sufficiently established by the prosecution. The prosecution was able to prove that a buy-bust operation was conducted. Even without the testimony of the *poseur*-buyer, the RTC held that SPO1 Naredo's testimony sufficiently established that a sale took place and that the marked money was recovered from appellant.<sup>16</sup>

Further, the RTC ruled that the integrity and evidentiary value of the seized evidence were preserved notwithstanding the lack of physical inventory and photographing of the seized evidence. The RTC held that SPO1 Naredo's testimony sufficiently showed that the illegal drugs subject of the sale were handed to him by the confidential informant, who had bought the same from appellant, and that SPO1 Naredo himself recovered three (3) plastic sachets from appellant. Thereafter, the seized evidence were marked and delivered by PO1 Cruz to one SPO1 Agustin of the crime laboratory. FC Rodrigo thereafter examined the seized evidence and placed her markings thereon. According to the RTC, the prosecution's failure to follow the procedural requirements under Section 21 of R.A. No. 9165 did not affect the integrity and evidentiary value of the seized evidence.<sup>17</sup>

Aggrieved, appellant appealed to the CA.

### **The CA Ruling**

In its February 22, 2017 Decision, the CA affirmed appellant's conviction. The CA ruled that the prosecution was able to establish all the elements of Illegal Sale of Dangerous Drugs. It gave full credence to SPO1 Naredo's positive identification of appellant and his narration of the buy-bust operation. The CA affirmed the finding of the RTC that the integrity and evidentiary value of the seized evidence had been preserved despite

<sup>15</sup> *Rollo*, p. 7, CA Decision; *CA rollo*, p. 25, RTC Decision.

<sup>16</sup> *CA rollo*, p. 26.

<sup>17</sup> *Id.* at 28-32.

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noncompliance with Sec. 21 of R.A. No. 9165. The chain of custody, according to the CA, consisted of the possession of the seized evidence by the police officers, the testing in the laboratory to determine its composition, and the presentation of the same seized evidence in court. The CA noted that the custody of the seized evidence remained with SPO1 Naredo until its delivery to the crime laboratory for forensic examination.<sup>18</sup>

Appellant now seeks the reversal of the CA Decision before this Court.

### Issue

WHETHER OR NOT THE GUILT OF APPELLANT FOR THE OFFENSES CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

In a January 17, 2018 Resolution,<sup>19</sup> this Court required the parties to submit their respective supplemental briefs, if they so desired. In its April 10, 2018 Manifestation (Re: Supplemental Brief),<sup>20</sup> the Office of the Solicitor General (*OSG*) manifested that it will no longer file a supplemental brief considering that the guilt of appellant was exhaustively discussed in its appellee's brief and no new issue was raised in the automatic review. In its April 18, 2018 Manifestation (In Lieu of a Supplemental Brief),<sup>21</sup> appellant averred that he would no longer file a supplemental brief to avoid repetition since he had sufficiently refuted all the arguments raised in the Appellee's Brief.

In his Appellant's Brief<sup>22</sup> before the CA, appellant argues that there was failure to comply with the requirements of Sec. 21, Article II of R.A. No. 9165. The arresting officer failed to conduct the physical inventory of, and to photograph, the seized evidence. Consequently, there was also non-compliance with the requirement of the presence of representatives from the Department of Justice (*DOJ*) and media, and an elected public official during the physical inventory and photographing of the seized evidence. Appellant maintains that the apprehending officers did not exert any genuine and sufficient effort to comply with the mandate of Sec. 21, Article II of R.A. No. 9165. He contends that the police officers failed to justify their failure to comply with the requirements under R.A. No. 9165, since the urgency of

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<sup>18</sup> *Rollo*, pp. 13-20.

<sup>19</sup> *Id.* at 26-27.

<sup>20</sup> *Id.* at 28-29.

<sup>21</sup> *Id.* at 33-35.

<sup>22</sup> *CA rollo*, pp. 51-70.

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conducting a buy-bust operation was also not established and it was not shown that the tip given by the confidential informant was verified. Finally, appellant argues that there were breaks in the chain of custody, specifically from the second to the fourth links.

In its Appellee's Brief<sup>23</sup> before the CA, the OSG urges this Court to affirm the challenged Decision of the RTC. The OSG maintains that the prosecution duly established the elements of the offenses charged. It insists that mere possession of a prohibited drug is sufficient to convict appellant in the absence of any satisfactory explanation, more so because the seized evidence from appellant tested positive for *shabu*. The OSG countered that there was an unbroken chain of custody – from SPO1 Naredo's recovery of the plastic sachets from appellant, to the markings he placed thereon after appellant's arrest, to the request for laboratory examination made by the buy-bust team, to the turnover by PO1 Cruz of the seized evidence to the crime laboratory, and to the examination thereof by FC Rodrigo which yielded a positive result for *shabu*. According to the OSG, the integrity and identity of the seized evidence were sufficiently preserved by the police officers who handled the plastic sachets confiscated from appellant.

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

It is a well-established rule that an appeal in criminal cases throws the whole case open for review.<sup>24</sup> Thus, the appellate court has the competence to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>25</sup> After careful examination, this Court finds the appeal meritorious.

To sustain a conviction for the offense of illegal sale or possession of dangerous drugs under R.A. No. 9165, it is of utmost importance to establish with moral certainty the identity of the confiscated drug.<sup>26</sup> To remove any doubt or uncertainty on the identity and integrity of the seized drug, it must be shown that the substance illegally possessed or sold by the accused is the same substance offered and identified in court.<sup>27</sup> This requirement is known as the chain of custody rule under R.A. No. 9165 created to safeguard doubts concerning the identity of the seized drugs.<sup>28</sup>

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<sup>23</sup> Id. at 97-109.

<sup>24</sup> *People v. Ygoy*, G.R. No. 215712, August 7, 2019.

<sup>25</sup> *People v. Comboy*, 782 Phil. 187,196 (2016).

<sup>26</sup> See *People v. Lorenzo*, 633 Phil. 393, 403 (2010).

<sup>27</sup> See *People v. Pagaduan*, 641 Phil. 432, 442-443 (2010).

<sup>28</sup> See *People v. Climaco*, 687 Phil. 593, 604-605 (2012), citing *Malilin v. People*, 576 Phil. 576 (2008).

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Chain of custody means the duly recorded, authorized movements, and custody of the seized drugs at each stage, from the moment of confiscation to the receipt in the forensic laboratory for examination until it is presented to the court.<sup>29</sup> Under Sec. 21, Article II of R.A. No. 9165:

(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.

The implementing rules and regulations of R.A. No. 9165 further expounded this provision:

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;

x x x x

Sec. 21 of R.A. No. 9165 requires the apprehending team, after seizure and confiscation, to immediately conduct a physical inventory of, and photograph, the seized drugs in the presence of: (a) the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel; (b) a representative from the media; (c) a representative from the DOJ; and (d) an elected public official. These four (4) witnesses should be present at the time of the apprehension of the accused and must all sign the copies of the inventory and obtain a copy thereof.

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<sup>29</sup> Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002.

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The procedure enshrined in Sec. 21, Article II of R.A. No. 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.<sup>30</sup> The police officers or PDEA agents implementing R.A. No. 9165 must strictly comply with the procedure laid out, although failure to strictly do so does not, *ipso facto*, render the seizure and custody over the illegal drugs as void and invalid if: (a) there is justifiable ground for such noncompliance; and (b) the integrity and evidentiary value of the seized evidence were preserved. Nonetheless, the safeguard measures under Sec. 21, Article II of R.A. No. 9165 must be strictly adhered to.

*There was a total lack of compliance with Sec. 21, Article II of R.A. No. 9165.*

In this case, the buy-bust team completely ignored the procedure outlined under Sec. 21, Article II of R.A. No. 9165. They failed to conduct a physical inventory of the seized items and to photograph the same. The deficiency is apparent from SPO1 Naredo's testimony:

Q: Did you have receipt of inventory issued in these cases?

A: None, ma'am.

Q: You have also no photographs?

A: None, ma'am.<sup>31</sup>

Moreover, the presence of the representatives required by law to witness the apprehension of appellant and seizure of the illegal drugs were not secured by the buy-bust team. In *People v. Tomawis*,<sup>32</sup> this Court held that the witnesses required by law in order to insulate against the police practice of planting evidence should be present at or near the time of apprehension of the accused.<sup>33</sup> This Court held that the time of the warrantless arrest is "the 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."<sup>34</sup>

<sup>30</sup> *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131, 145, citing *Gamboa v. People*, 799 Phil. 584, 597 (2016).

<sup>31</sup> *Rollo*, p. 15; CA Decision.

<sup>32</sup> *Supra* note 30.

<sup>33</sup> *Id.* at 147.

<sup>34</sup> *Id.* at 150.

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Neither can the prosecution rely on the saving clause of Sec. 21, Article II of R.A. No. 9165. In *Gamboa v. People*,<sup>35</sup> this Court ruled that “the saving clause applies only where the prosecution has recognized the procedural lapses on the part of the police officers or PDEA agents, and thereafter explained the cited justifiable grounds; after which, the prosecution must show that the integrity and evidentiary value of the seized items have been preserved.”<sup>36</sup> It was not shown that the prosecution even recognized that the buy-bust team in this case committed major lapses in handling the seized illegal drugs from appellant. Consequently, no justification was offered by the prosecution as to why the procedure in Sec. 21, Article II of R.A. No. 9165 was not adhered to.

When a court cannot be assured that the drugs presented as evidence are exactly what the prosecution purports them to be, it cannot be assured that any activity or transaction pertaining to them truly proceeded, as the prosecution claims they did. Thus, no conviction can ensue, as in this case.<sup>37</sup>

*The links in the chain of custody were not properly established by the prosecution.*

This Court explained in *Malillin v. People*<sup>38</sup> how the chain of custody or movement of the seized evidence should be maintained and why this must be shown by evidence, viz.:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into 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.<sup>39</sup>

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<sup>35</sup> Supra note 30.

<sup>36</sup> Id. at 595.

<sup>37</sup> *People v. Asaytuno, Jr.*, G.R. No. 245972, December 2, 2019.

<sup>38</sup> Supra note 28.

<sup>39</sup> Id. at 587; citations omitted.

In *People v. Kamad*<sup>40</sup> and *People v. Dahil*,<sup>41</sup> this Court enumerated the links that the prosecution must establish in the chain of custody of a buy-bust situation to be as follows: *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 by the forensic chemist to the court.

This Court finds that the second, third, and fourth links in the chain of custody were not established by the prosecution in the case at bar.

### *Second link*

The second link in the chain of custody is the transfer of the seized drugs by the apprehending officer to the investigating officer.<sup>42</sup> The investigating officer shall conduct the proper investigation and prepare the necessary documents for the proper transfer of the evidence to the police crime laboratory for testing. Thus, the investigating officer's possession of the seized drugs must be documented and established.<sup>43</sup>

Here, the name of the investigator was neither identified nor mentioned by the prosecution. SPO1 Naredo failed to specify the person to whom he turned over the seized items upon reaching the police station. It was merely stated that "the police officers prepared a request for laboratory examination and drug testing."<sup>44</sup> However, the specific person who handled the seized items for the preparation of the required documents was not named in the records. When the apprehending officer is unable to identify the investigating officer to whom he turned over the seized items, this Court has held that such circumstance, when taken in light of the several other lapses in the chain of custody that attend the case, raises doubts as to whether the integrity and evidentiary value of the seized illegal drugs had been preserved.<sup>45</sup>

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<sup>40</sup> 624 Phil. 289 (2010).

<sup>41</sup> 750 Phil. 212 (2015).

<sup>42</sup> *Id.* at 235.

<sup>43</sup> *Id.*

<sup>44</sup> *Rollo*, p. 5; CA Decision, p. 4.

<sup>45</sup> *People v. Hementiza*, 807 Phil. 1017, 1035 (2017), citing *People v. Nandi*, 639 Phil. 134 (2010).

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*Third Link*

The third link in the chain of custody is the delivery by the investigating officer of the illegal drug to the forensic chemist. Once the seized drugs arrive at the forensic laboratory, it will be the laboratory technician who will test and verify the nature of the substance.<sup>46</sup>

Here, SPO1 Naredo testified that he was with PO1 Cruz when the latter delivered the seized items to SPO1 Agustin of the crime laboratory. Thus, there was an apparent transfer of the seized items from SPO1 Naredo to PO1 Cruz. As can be gleaned from SPO1 Naredo's testimony, however, no informative details were provided as to how, and at what point, the seized items were handed to PO1 Cruz, who was not even a member of the buy-bust team. There was also lack of information on the condition of the seized items when SPO1 Naredo transmitted the same to PO1 Cruz and when PO1 Cruz delivered it to SPO1 Agustin. Further, there was no documentary evidence indicating SPO1 Agustin's actual receipt of the seized items and how the latter handled the same upon his receipt thereof before transmitting the same to FC Rodrigo for forensic examination.

*Fourth Link*

The last link involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case.<sup>47</sup> In this case, there was no testimonial or documentary evidence on how FC Rodrigo kept the seized items while it was in her custody and in what condition the items were in until it was presented in court. While the parties stipulated on FC Rodrigo's testimony, the stipulations do not provide information regarding the condition of the seized item while in her custody or if there was no opportunity for someone not in the chain to have possession thereof.

In *People v. Gutierrez*,<sup>48</sup> there were inadequate stipulations as to the testimony of the forensic chemist. In that case, no explanation was given regarding the chemist's custody in the interim - from the time it was turned over to the investigator to its turnover for laboratory examination. The records also failed to show what happened to the allegedly seized *shabu* between the

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<sup>46</sup> *People v. Asaytuno, Jr.*, supra note 37.

<sup>47</sup> *Id.*

<sup>48</sup> 614 Phil. 285 (2009).


turnover by the chemist to the investigator and its presentation in court. Thus, since no precautions were taken to ensure that there was no change in the condition of the object and no opportunity for someone not in the chain to have possession thereof, the accused therein was acquitted.

In view of the foregoing lapses in the chain of custody and the lack of compliance with Sec. 21, Article II of R.A. No. 9165, appellant's acquittal is only proper. Serious uncertainty hangs over the identification of the *corpus delicti* that the prosecution introduced into evidence in order to convict appellant. In effect, the prosecution has no evidence against appellant given that the circumstances surrounding the handling of the seized items cast doubt on their source, identity, and integrity.

**WHEREFORE**, the appeal is **GRANTED**. The February 22, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07680 is hereby **REVERSED** and **SET ASIDE** for failure of the prosecution to prove beyond reasonable doubt the guilt of Raul Del Rosario y Niebres. He is hereby **ACQUITTED** of the crimes charged against him and ordered immediately **RELEASED** from custody, unless he is being held for some other lawful cause.

The Director of the Bureau of Corrections is **ORDERED** to implement this Decision and to inform this Court of the date of the actual release from confinement of Raul Del Rosario y Niebres within five (5) days from receipt of this Decision.


**SO ORDERED.**

  
ALEXANDER G. GESMUNDO  
Associate Justice

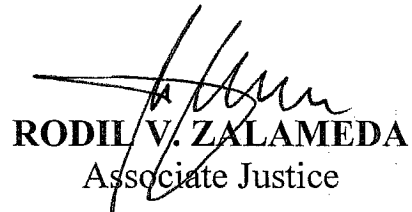
**WE CONCUR:**



**MARVIC M.V.F. LEONEN**  
Associate Justice  
Chairperson



**ROSMARI D. CARANDANG**  
Associate Justice

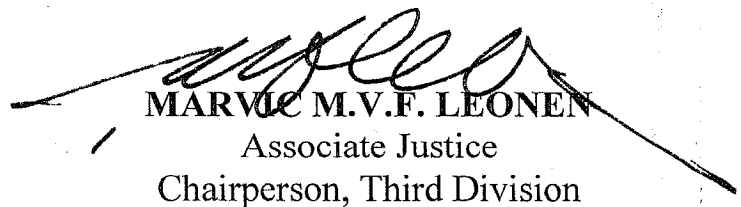


**RODIL V. ZALAMEDA**  
Associate Justice

(On Leave)  
**SAMUEL H. GAERLAN**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M.V.F. LEONEN**  
Associate Justice  
Chairperson, Third Division

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**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
Chief Justice

**CERTIFIED TRUE COPY**

*Mis DDC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court  
Third Division

SEP 28 2020