



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 214779

Present:

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE,* and
 TIJAM, JJ.

- versus -

ABDULWAHID PUNDUGAR,
Accused-Appellant.

Promulgated:
FEB 07 2018

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RESOLUTION

DEL CASTILLO, J.:

Challenged in this appeal is the November 28, 2013 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05530 which affirmed the March 28, 2012 Judgment² of the Regional Trial Court (RTC), Branch 204, Muntinlupa City, finding Abdulwahid Pundugar y Imam (appellant) guilty beyond reasonable doubt of violation of Section 5 (illegal sale of dangerous drugs) and Section 11 (illegal possession of dangerous drugs), Article II of Republic Act (RA) No. 9165 or The Comprehensive Dangerous Drugs Act of 2002.

Version of the Prosecution

At around 4:30 p.m. of May 24, 2008, a police informant came to the office of the Anti-Illegal Drugs of Muntinlupa City providing the information that a

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* Designated as additional member per September 6, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.

¹ CA *rollo*, pp. 135-154; penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Stephen C. Cruz and Myra Garcia-Fernandez.

² Records, pp. 311-322; penned by Judge Juanita T. Guerrero.

certain "Tatay" (later identified as appellant Abdulwahid Pundugar) was dealing with illegal drugs at *Purok 7*, Brgy. Alabang, Muntinlupa City. Upon learning of such information, a team was formed to conduct surveillance and a possible buy-bust operation with PO2 Domingo Julaton III (PO2 Julaton) as the designated poseur-buyer. After a coordination of their plan with the Philippine Drug Enforcement Agency³ (PDEA), PO2 Julaton was given five pieces of 100 peso bills to be used as buy-bust money. Together with the informant, PO2 Julaton went to the target area while PO2 Elbert Ocampo (PO2 Ocampo) was assigned as "back-up." From a distance of 10 meters away, they saw appellant conversing with two companions. Upon approaching them, the informant introduced PO2 Julaton to appellant as a seaman who wanted to score. Appellant asked PO2 Julaton how much he would buy and the latter answered 500 pesos worth. After PO2 Julaton gave the buy-bust money, appellant in turn gave a sachet of *shabu* to the former. Amid their transaction, PO2 Julaton saw appellant giving a plastic sachet to each of the latter's companion. PO2 Julaton scratched the back of his head as the pre-arranged signal to his back-up that the sale transaction had been consummated. When PO2 Ocampo arrived, PO2 Julaton immediately held the hand of appellant, introduced himself as a police officer and arrested him. PO2 Julaton ordered appellant to bring out the contents of his pocket. Appellant obliged and PO2 Julaton retrieved four more plastic sachets containing white crystalline substance and the buy-bust money. PO2 Ocampo arrested appellant's companions and confiscated from them two pieces of plastic sachets. Appellant and his companions together with the confiscated items were brought to the police station for investigation. Thereat, PO2 Julaton immediately placed the marking "AB" for the item sold and the markings "AB-1," "AB-2," "AB-3," and "AB-4" for the items retrieved from appellant's pocket.⁴ He took photographs of the items in front of appellant and an inventory of the drugs seized was made.⁵ Thereafter a request for laboratory examination was prepared⁶ and PO2 Julaton and PO2 Ocampo brought appellant to the Philippine National Police (PNP) Crime Laboratory together with the confiscated drugs and the request for laboratory examination.

Police Senior Inspector (PSI) Mark Alain B. Ballesteros (PSI Ballesteros), Forensic Chemist of the PNP Crime Laboratory based in Camp Crame, Quezon City personally received the specimen from PO2 Julaton together with the request for laboratory examination. In his Chemistry Report No. D-219-08⁷ prepared by PSI Ballesteros the specimen recovered from appellant gave positive result for methamphetamine hydrochloride or *shabu*, a dangerous drug. Appellant was thereafter charged for violation of Sections 5 and 11, Article II of RA 9165 before

³ Id. at 11.

⁴ With recorded net weights as follows: "AB" = 0.04 gram; "AB-1" = 0.05 gram; "AB-2" = 0.06 gram; "AB-3" = 0.04 gram and "AB-4" = 0.05 gram. Id. at 14.

⁵ Id. at 18.

⁶ Id. at 13.

⁷ Id. at 14.



the RTC of Muntinlupa City.⁸

Version of the Defense

Appellant denied having sold *shabu* to a poseur-buyer or having in his possession sachets of *shabu*. According to him, at around 4:00 p.m. of May 24, 2008, he was attending to his store together with his daughter Noramida “Lily” Pundugar (Noramida) when he heard people shouting that policemen were coming. When he went out, he was suddenly handcuffed and brought to the police station. At the police station, he was shown plastic sachets containing *shabu* and was told to give ₱600,000.00 otherwise he will be charged and remain in jail.

Noramida corroborated the narration of his father regarding the latter’s arrest. She also maintained that nothing was recovered from her father as well as from inside their store after a search was made by the policemen.

Ruling of the Regional Trial Court

Giving credence to the prosecution witnesses, the RTC ruled that the prosecution has sufficiently proven that appellant was caught in *flagrante delicto* selling dangerous drug to a law enforcement agent who posed as buyer and a subsequent search on his body yielded four more plastic sachets containing white crystalline substance. When these items were subjected to chemistry examination, they were found positive for the presence of methamphetamine hydrochloride or *shabu*, a dangerous drug. The RTC rejected appellant’s defense of denial and frame-up. Thus, it found appellant guilty beyond reasonable doubt as charged. The dispositive portion of the Judgment reads:

WHEREFORE, premises considered and finding the accused ABDULWAHID PUNDUGAR y IMAM, GUILTY beyond reasonable doubt in Criminal Case No. 08-370, for Violation of Sec. 5 of Republic Act [No.] 9165, he is sentenced to LIFE IMPRISONMENT and to pay a FINE of Php 500,000.00.

⁸ Criminal Case No. 08-370

That on the 24th day of May 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 and unlawfully sell, trade, deliver and give away to another, Methylamphetamine Hydrochloride, a dangerous drug weighing 0.04 gram, contained in one (1) heat-sealed transparent plastic sachet, in violation of the above-cited law.

Contrary to law. (Id. at 1.)

Criminal Case No. 08-371

That on the 24th day of May 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 and unlawfully have in possession, custody and control Methylamphetamine Hydrochloride, a dangerous drug weighing 0.20 gram, contained in four (4) heat-sealed transparent plastic sachets, in violation of the above-cited law.

Contrary to law. (Id. at 2.)

In Criminal Case No. 08-371, the Court likewise finds the accused ABDULWAHID PUNDUGAR y IMAM, GUILTY beyond reasonable doubt of the crime of Violation of Sec. 11 of Republic Act [No.] 9165 and he is sentenced to an indeterminate penalty of imprisonment of twelve (12) years and one (1) day of *prision mayor*⁹ as minimum to fourteen (14) years as maximum. He is further ordered to pay a FINE of Php 300,000.00.

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IT IS SO ORDERED.¹⁰

Ruling of the Court of Appeals

Appellant appealed to the CA ascribing error on the trial court in finding him guilty despite the prosecution's failure to prove the same beyond reasonable doubt as well as the non-compliance by the apprehending police officers with Section 21 of RA 9165 and its Implementing Rules and Regulations resulting in a broken chain of custody over the confiscated drugs.

By its assailed Decision of November 28, 2013, the CA denied appellant's appeal after finding no reason to doubt the integrity and evidentiary value of the confiscated drugs as the apprehending officers were able to preserve the same. Moreover, the CA observed that no motive was attributed to the apprehending officers by appellant to falsely testify against him thereby upholding the presumption of regularity in the performance of their duties. Thus:

WHEREFORE, the appeal is hereby DENIED for lack of merit.

SO ORDERED.¹¹

Our Ruling

The appeal is devoid of merit.

Elements of illegal sale and illegal possession of dangerous drug established in this case.

For a successful prosecution of illegal sale of drugs in a buy-bust operation, the following elements must be proven: (1) "the identity of the buyer and seller, object and consideration; and (2) the delivery of the thing sold and the payment

⁹ Should be *reclusion temporal*.

¹⁰ Records, p. 322.

¹¹ CA rollo, pp. 153-154.



therefor.”¹² What is material is the proof that the transaction or sale actually took place, coupled with the presentation of the *corpus delicti* as evidence. Thus, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the buy-bust money consummate the illegal transaction.

All the foregoing elements have been established by the prosecution in this case. The prosecution witnesses gave an accurate account of the transaction in a candid and straightforward manner. It was proven that PO2 Julaton was the poseur-buyer while appellant was positively identified as the seller of the sachet of *shabu* for the sum of ₱500.00. The sachet containing white crystalline substance presented during trial was identified by PO2 Julaton as the substance purchased from appellant. The substance when examined by PSI Ballesteros tested positive for methamphetamine hydrochloride or *shabu*.

Also established by the prosecution were the elements for illegal possession of regulated or prohibited drugs, to wit: “(1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.”¹³ In the present case, when appellant was lawfully arrested because of the buy-bust operation, he was also found to have in his possession another four plastic sachets of *shabu*.¹⁴ Appellant failed to show that he had legal authority to possess the same. He did not give any explanation for such possession; thus a *prima facie* evidence of knowledge or *animus possidendi* arises against him.

Chain of custody unbroken; integrity and evidentiary value of the seized drugs preserved.

In every prosecution of drug related cases, the presentation of the drug itself constitutes the *corpus delicti* of the offense and its existence is indispensable to a judgment of conviction. It behooves upon the prosecution to establish beyond reasonable doubt the identity of the narcotic substance. It must be shown that the item subject of the offense is the same substance offered in court as exhibit.¹⁵ The chain of custody requirements provided for in Section 21, Article II of RA 9165 performs this function as it ensures the preservation of the integrity and evidentiary value of the item so that unnecessary doubts concerning the identity of the evidence are removed.¹⁶

¹² *People v. Alcalá*, 739 Phil. 189, 197 (2014).

¹³ *People v. Abedin*, 685 Phil. 552, 563 (2012).

¹⁴ Marked and with recorded net weights as follows: “AB-1” = 0.05 gram; “AB-2” = 0.06 gram; “AB-3” = 0.04 gram and “AB-4” = 0.05 gram. Records, p. 14.

¹⁵ *People v. Salonga*, 617 Phil. 997, 1010 (2009).

¹⁶ *People v. Unisa*, 674 Phil. 89, 117 (2011).

Invoking the pertinent provisions of the law, appellant capitalizes on the failure of the apprehending officers to mark and make an inventory of the seized illicit items at the crime scene immediately upon his arrest and not at the police station as what the officers did. In essence, appellant asks for a strict compliance with the prescribed procedures.

It is settled that failure to strictly comply with the prescribed procedures in the inventory (and marking) of seized drugs does not render an arrest of the accused illegal or the items seized/confiscated from him inadmissible. What is essential is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.¹⁷

The primordial concern, therefore, is the preservation of the integrity and evidentiary value of the seized items which must be proven to establish the *corpus delicti*. Here, records disclosed that after PO2 Julaton received one plastic sachet and confiscated another four plastic sachets containing *shabu* from appellant, he immediately brought the same to the police station where he marked them "AB," "AB-1," "AB-2," "AB-3" and "AB-4," respectively. He then forwarded the said plastic sachets of *shabu* duly marked to the PNP Crime Laboratory, Camp Crame, Quezon City for laboratory examination. These duly marked items were received personally by Forensic Chemist PSI Ballesteros. After a quantitative examination conducted by PSI Ballesteros, the contents of the plastic sachets were found to be positive for methamphetamine hydrochloride or *shabu*. Upon being weighed, the plastic sachets were determined to be containing 0.04 gram for the item sold and an aggregate weight of 0.20 gram for the items recovered from appellant's possession. When these items were presented during the trial, PO2 Julaton positively identified them as the items sold and recovered from the possession of appellant. Clearly, the prosecution had established that there was an unbroken chain of custody over the subject illicit items resulting, undoubtedly, in the preservation of their integrity and evidentiary value.

Besides, marking of the seized items at the police station will not dent the case of the prosecution. As held in *People v. Resurreccion*¹⁸ marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team. In fact, the Guidelines on the Implementing Rules and Regulations (IRR) of Section 21 of Republic Act No. 9165 as amended by Republic Act No. 10640 (Guidelines) provides that:

A.1.3. In warrantless seizures, the marking, physical inventory and photograph of the seized items in the presence of the violator shall be done immediately at the place where the drugs were seized or at the nearest

¹⁷ *People v. Le*, 636 Phil. 586, 598 (2010).

¹⁸ 618 Phil. 520, 532 (2009).



police station or nearest office of the apprehending officer/team, whichever is practicable.

Thus, as the law now stands, the apprehending officer has the option whether to mark, inventory, and photograph the seized items immediately at the place where the drugs were seized, or at the nearest police station, or at the nearest office of the apprehending officer, whichever is the most practical or suitable for the purpose.

In this case, the apprehending officers found it more practicable to mark, inventory, and photograph the seized drugs at the police station. As aptly noted by the CA:

Appellant's harping on the failure of the buy-bust team to immediately mark the seized contrabands at the time of apprehension must give way to the paramount safety and security of the team. It is of record and noted in the appealed Judgment that the area where the buy-bust team operated is a squatters area with a big Muslim population and fearing any commotion and possible retaliation since appellant is a Muslim, they opted to immediately leave the place and performed the marking at their office. Besides a crowd was already starting to gather in the vicinity as testified to by appellant's daughter Noramida.¹⁹

Next, there is no dispute that the seized illegal drugs were marked, inventoried, and photographed in the presence of appellant. However, appellant claims that the absence of representatives from the media, the Department of Justice (DOJ) and an elective government official during the conduct of the inventory and taking of photograph is fatal to the prosecution's cause.

Section 21 of RA 9165, as amended by RA 10640,²⁰ pertinently provides:

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 dangerous drugs, controlled precursors and essential chemicals, instruments/

¹⁹ CA rollo, p. 149.

²⁰ AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002". Approved July 15, 2014.



paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media 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, finally*, That noncompliance of 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 and custody over said items.

In addition, the Guidelines provides:

- A.1.5. The physical inventory and photograph of the seized/confiscated items shall be done in the presence of the suspect or his representative or counsel, with elected public official and a representative of the National Prosecution Service (NPS) or the media, who shall be required to sign the copies of the inventory of the seized or confiscated items and be given copy thereof. In case of the refusal to sign, it shall be stated 'refused to sign' above their names in the certificate of inventory of the apprehending or seizing officer.
- A.1.6. A representative of the NPS is anyone from its employees, while the media representative is any media practitioner. The elected public official is any incumbent public official regardless of the place where he/she is elected.

To be sure, strict compliance with this requirement is not mandated. In fact, the law itself provides a saving mechanism, to wit:

x x x *Provided, finally*, That noncompliance of 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 and custody over said items.

Here, the prosecution was able to establish that the buy-bust was conducted at around 6:20 p.m.²¹ in a squatters' area. The prosecution also explained that they were not able to invite representatives from the media, the DOJ, or an elected public official because they could not find anyone available²² and that they were pressed for time.²³ To our mind, these are justifiable reasons for non-compliance

²¹ TSN, April 19, 2009, p.5.

²² TSN, August 19, 2009, p. 20.

²³ TSN, February 26, 2009, p. 11.

with the requirements. And considering that the integrity and evidentiary value of the seized items were properly preserved, as shown by the unbroken chain of custody of the seized items, said non-compliance did not render void or invalid such seizure and custody over the illegal drugs.

Appellant's defense hinges on denial and frame-up which is a weak defense especially when unsubstantiated by credible and convincing evidence. It must be noted that appellant was caught in *flagrante delicto* in a legitimate buy-bust operation. As held in *People v. Velasquez*,²⁴ "[t]he defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecutions for violation of the Dangerous Drugs Act."

Penalty properly imposed on appellant.

Under Section 5, Article II of RA 9165 the penalty for illegal sale of dangerous drugs, such as *shabu*, regardless of its quantity and purity, is life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10 million. However, in light of the effectivity of Republic Act No. 9346,²⁵ the imposition of the penalty of death has been proscribed. Thus, the penalty of life imprisonment and a fine of ₱500,000.00 imposed on appellant by the RTC as affirmed by the CA for the illegal sale of *shabu* is in order.

For the crime of illegal possession of dangerous drugs, Section 11, Article II of RA 9165 provides the penalty of imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from ₱300,000.00 to ₱400,000.00 for less than five grams of *shabu*. In this case, appellant was found in possession of *shabu* with an aggregate weight of 0.20 gram which is less than five grams. Thus, the penalty of twelve (12) years and one (1) day of *reclusion temporal* as minimum to fourteen (14) years as maximum and a fine of ₱300,000.00 imposed on appellant by the RTC and affirmed by the CA is also in order.

WHEREFORE, the challenged November 28, 2013 Decision of the Court of Appeals in CA-G.R. CR-HC No. 05530 affirming the March 28, 2012 Judgment of the Regional Trial Court, Branch 204, Muntinlupa City in Criminal Case Nos. 08-370 and 08-371 finding appellant Abdulwahid Pundugar y Imam **GUILTY** beyond reasonable doubt for violation of Sections 5 and 11, respectively, Article II of Republic Act No. 9165, is **AFFIRMED**.




²⁴ 685 Phil. 538, 549 (2012).


²⁵ AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES.


SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

see dissenting opinion

ESTELA M. PERLAS-BERNABE
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice

CERTIFICATION

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


MARIA LOURDES P. A. SERENO
Chief Justice

**G.R. No. 214779 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,
v. ABDULWAHID PUNDUGAR, Accused-Appellant.**

Promulgated:

FEB 07 2018

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DISSENTING OPINION

PERLAS-BERNABE, J.:

I respectfully submit my dissent to the *ponencia* which affirmed the conviction of accused-appellant Abdulwahid Pundugar for violations of Sections 5 and 11, Article II of Republic Act No. (RA) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”¹ As will be explained hereunder, my dissent is centered on the police officers’ unjustified deviation from the chain of custody procedure as required by RA 9165, as amended.

Under Section 21, Article II of RA 9165, prior to its amendment by RA 10640,² the physical inventory and photography of the seized items should be conducted in the presence of the accused or the person from whom the items were seized, or his representative or counsel, with an elected public official, and representatives from the media and the Department of Justice (DOJ), who shall be required to sign the copies of the inventory. The purpose of this rule is to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence which could considerably affect a case.³ Non-compliance with this requirement, however, would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; **and** (b) the integrity and evidentiary value of the seized items are properly preserved.⁴

¹ 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.

² Entitled “AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE ‘COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,’” approved on July 15, 2014. The crime subject of this case was allegedly committed on May 24, 2008, prior to the enactment of RA 10640.

³ See *People v. Mendoza*, 736 Phil. 749, 764 (2014).

⁴ See *People v. Goco*, G.R. No. 219584, October 17, 2016, 806 SCRA 240, 252. See also *People v. Almorfe*, 631 Phil. 51, 60 (2010).

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Case law states that in determining whether or not there was indeed a justifiable reason for the deviation in the aforesaid rule on witnesses, the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for “[a] sheer statement that representatives were unavailable – without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances – is to be regarded as a flimsy excuse.”⁵ Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance.

In this case, the arresting officers attempted to justify the complete absence of any of the required witnesses during the conduct of inventory and photography of the seized items from accused-appellant by merely explaining that “they could not find anyone available and that they were pressed for time,”⁶ without any showing that they exerted earnest efforts in complying with the rule. To reiterate, the arresting officers are compelled not only to state reasons for their non-compliance, but must, in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstance, their actions were reasonable. Thus, for failure of the prosecution to provide justifiable grounds or show that special circumstances exist which would excuse their transgression, I respectfully submit that the integrity and evidentiary value of the items purportedly seized from the accused-appellant have been compromised. To stress, the chain of custody procedure enshrined in Section 21, Article II of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality.⁷

In the recent case of *People v. Miranda*,⁸ the Court held that “as the requirements are clearly set forth in the law, then the State retains the **positive duty** to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise it risks the possibility of having a conviction overturned on grounds that go into the evidence’s integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.”⁹

⁵ *People v. Umipang*, 686 Phil. 1024, 1053 (2012).

⁶ See *ponencia*, p. 8.

⁷ *Gamboa v. People*, G.R. No. 220333, November 14, 2016, 808 SCRA 624, 637.

⁸ See G.R. No. 229671, January 31, 2018; emphasis and underscoring supplied.

⁹ See *id.*

ACCORDINGLY, in view of the above-stated reasons, I vote to **GRANT** the appeal, and consequently, **ACQUIT** accused-appellant Abdulwahid Pundugar.

MP. Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice