Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ROMMEL RAMOS *y* LODRONIO,
Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 227336

Present:

VELASCO, *J.*, *Chairperson*,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, *JJ.*

Promulgated:

February 26, 2018

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DECISION

GESMUNDO, *J.*:

This is a petition for review on *certiorari* seeking to reverse and set aside the January 28, 2016 Decision[1] and September 23, 2016 Resolution[2] of the Court Appeals *(CA)* in CA-G.R. CR No. 35751. The CA affirmed the April 8, 2013 Decision[3] of the Regional Trial Court of Caloocan City, Branch 120, *(RTC)* finding petitioner Rommel Ramos *y* Lodronio *(petitioner)* guilty of illegal possession of dangerous drugs.

The Antecedents

In separate informations, petitioner was charged with violating Section 11, Article II of Republic Act *(R.A.)* No. 9165 while his co-accused Rodrigo Bautista *y* Sison *(Bautista)* was charged with violating Secs. 5 and 11 thereof, which state:

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[1] *Rollo*, pp. 35-46.
[2] Id. at 48-49.
[3] Id. at 67-79.

Criminal Case No. C-81958 (for Accused Bautista)
Violation of Section 5, Article II, R.A. No. 9165

"That on or about the 23rd day of August 2009 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to PO1 ROLANDO MADRONERO, who posed, as buyer, MARIJUANA weighing 1.78 gram & 1.17 gram, a dangerous drug, without the corresponding license or prescription therefor, knowing the same to be such.

Contrary to law."

Criminal Case No. C-81959 (for Accused Bautista)
Violation of Section 11, Article II, R.A. No. 9165

"That on or about the 23rd day of August 2009 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control Three (3) heat-sealed transparent plastic sachets each containing MARIJUANA fruiting tops weighing 1.06 gram, 1.29 gram & 1.00 gram, when subjected for laboratory examination gave positive result to the tests for Marijuana, a dangerous drug.

Contrary to law."

Criminal Case No. C-81960 (for petitioner)
Violation of Section 11, Article II, R.A. No. 9165

"That on or about the 23rd day of August 2009 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control Two (2) heat-sealed transparent plastic sachets each containing MARIJUANA fruiting tops weighing 1.54 gram & 1.01 gram, when subjected for laboratory examination gave positive result to the tests for Marijuana, a dangerous drug.

Contrary to law."[4]

On September 8, 2009, petitioner and Bautista were arraigned and they pleaded "not guilty."[5] On September 30, 2009, petitioner posted the required bail bond and was released from custody.[6] Thereafter, trial ensued.

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[4] Id. at 36.
[5] Id. at 68.
[6] Records, p. 94.

Version of the Prosecution

The prosecution presented PCI Stella G. Ebuen *(PCI Ebuen),* PO1 Rolando Madronero *(PO1 Madronero),* PO3 Ferdinand Modina *(PO3 Modina)* and PO3 Remigio Valderama *(PO3 Valderama)* as its witnesses. Their combined testimonies tended to establish the following:

On August 23, 2009, at around 2:30 in the afternoon, an informant reported that Bautista and petitioner were selling drugs at Block 15, Raffle Street, Barangay 31, Maypajo, Caloocan City. Caloocan Chief of Police PSI Allan Emlano formed a buy-bust team, consisting of seven (7) members. PO1 Madronero was designated as the poseur-buyer.[7]

At around 4:30 in the afternoon, PO1 Madronero, PO3 Valderama, PO3 Modina and the informant went to the target area. At the designated area, PO1 Madronero and the informant approached Bautista and petitioner. Baustista asked *"Iiskor ba kayo?"* to which PO1 Madronero replied, *"Oo, halagang dos lamang."* PO1 Madronero handed two marked ₱50 bills to Bautista, who in turn gave him two (2) plastic sachets.[8]

Thereafter, PO1 Madronero performed the pre-arranged signal, introduced himself as a police officer and arrested Bautista and petitioner. PO3 Valderama then frisked Bautista and recovered the marked bills and three (3) plastic sachets containing marijuana. Meanwhile, PO3 Modina frisked petitioner and recovered from him two (2) plastic sachets.[9]

PO1 Madronero marked the two (2) sachets bought from Bautista, while PO3 Valderama marked the other three (3) plastic sachets recovered from Bautista. On the other hand, PO3 Modina marked the two (2) plastic sachets retrieved from petitioner. Bautista and petitioner, together with the recovered items were brought to the police station.[10]

At the station, the marked bills, the seven (7) plastic sachets and the two accused were turned over to the Investigating Officer, PO3 Lauro P. dela Cruz *(PO3 dela Cruz)*. He then placed the bills and plastic sachets in a bigger plastic container and marked the same. PO3 dela Cruz personally brought the specimens to the crime laboratory and was received by PCI Ebuen. She conducted the examination on the specimens and yielded a positive result for marijuana.[11] The two (2) plastic sachets of drugs from the sale with Bautista weighed 0.78 gram and 1.17 grams; the three (3) plastic sachets of drugs confiscated from the possession of Bautista weighed 1.06 grams, 1.29 grams and 1.00 gram; while the two (2) plastic sachets of drugs

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[7] *Rollo,* p. 15.
[8] Id.
[9] Id. at 15-16.
[10] Id. at 38.
[11] Id. at 88.

confiscated from the possession of petitioner weighed 1.54 grams and 1.01 grams.

Version of the Defense

The defense presented petitioner, Bautista, Antonio Gonzaga *(Gonzaga)* and Roel Anzen Bermudes *(Bermudes)* as its witnesses. Their testimonies state:

On August 23, 2009, Antonio Gonzaga saw petitioner sitting at the side of Talilong Talaba Street, Caloocan City. At around 6:00 to 7:00 o'clock in the afternoon, a van stopped in front of the latter and he was forced to board it. The vehicle then proceeded to Bautista's house. There, Bermudes saw five (5) men climbed the stairs to Bautista's house, with one person asking him if he knew a certain "Odeng"—Bautista's nickname.[12]

Without warning, the five (5) men searched Bautista's house and he was eventually arrested and placed inside the van. While inside, they were coerced to point other persons who were dealing drugs in exchange for their freedom. At the police station, Bautista called his mother, who went to the police station. There, PO1 Madronero demanded from her ₱50,000.00 in exchange for his freedom.[13]

The RTC Ruling

In its April 8, 2013 decision, the RTC found Bautista and petitioner guilty for the respective offenses charged against them. The trial court disregarded the allegation that the drugs were planted because it was unsubstantiated and no ill-motive on the part of the police officers was shown. It ruled that the prosecution was able to establish all the elements of illegal sale of drugs because it was proven that Bautista sold the confiscated drugs to PO1 Madronero in a buy-bust operation. The RTC also held that there was illegal possession of drugs because the dangerous drugs were confiscated from petitioner and Bautista after the valid arrest. The dispositive portion reads:

> Premises considered, this court finds and so holds that:
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> (1) The accused Rodrigo Bautista y Sison GUILTY beyond reasonable doubt for violation of Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and imposes upon him the following:

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[12] Id. at 16.
[13] Id.

a. In Crim. Case No. C-81958, the penalty of Life Imprisonment and a fine of Five Hundred Thousand Pesos (P500,000.00); and

b. In Crim. Case No. C-81959, the penalty of Imprisonment of twelve (12) years and one (1) day to Fourteen (14) years and a fine of Three Hundred Thousand Pesos (P300,000.00).

(2) In Crim. Case No. C-81960, the accused Rommel Ramos y Lodronio GUILTY beyond reasonable doubt for violation of Section 11, Article II of Republic Act No. 9165, and imposes upon him the penalty of Imprisonment of twelve (12) years and one (1) day to Fourteen (14) years and a fine of Three Hundred Thousand Pesos (P300,000.00).

The drugs subject matter of these cases are hereby confiscated and forfeited in favour of the government to be dealt with in accordance with law.

SO ORDERED.[14]

In its Order,[15] in view of its judgment of conviction, the RTC ordered that petitioner be taken custody by the Bureau of Jail Management and Penology, Caloocan City for his eventual transfer to the National Bilibid Prison.

Undaunted, petitioner appealed to the CA.[16] However, he did not file a bail bond pending appeal. On the other hand, Bautista did not pursue his appeal anymore.[17]

The CA Ruling

In its January 28, 2016 decision, the CA affirmed the RTC's decision. The appellate court considered the recovery of the plastic sachets of marijuana from petitioner as an incident of lawful arrest. It disagreed with petitioner's observation that the marking of the plastic sachets was dubious because it was marked with his initials notwithstanding the police officers' lack of knowledge of his full name. The CA highlighted that the informant already identified Bautista and petitioner when he went to the police station to report the illegal drug activities of the two.

In addition, the appellate court posited that failure to strictly comply with the procedure in Sec. 21 of R.A. No. 9165 was not fatal to the prosecution because the integrity and evidentiary value of the seized items were preserved. It noted that the records show how the seized items were handled from the time they were confiscated until they were presented in

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[14] Id. at 78-79.
[15] Records, p. 358.
[16] Id. at 359.
[17] Id. at 367.

court. Lastly, the CA explained that coordination with the Philippine Drug Enforcement Agency *(PDEA)* is not an indispensable element of a buy-bust operation. The *fallo* of the CA decision reads:

> WHEREFORE, the Appeal is DENIED. The Regional Trial Court's Decision dated April 8, 2013 is hereby AFFIRMED in toto.
>
> SO ORDERED.[18]

Petitioner moved for reconsideration but it was denied by the CA in its September 23, 2016 resolution.

Hence, this petition raising the following issues:

> I.
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> WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE PETITIONER'S CONVICTION DESPITE THE PROSECUTION'S FAILURE TO PROVE THAT THE TWO (2) PLASTIC SACHETS OF MARIJUANA PRESENTED WERE THE VERY SAME ITEMS CONFISCATED.
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> II.
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> WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE PETITIONER'S CONVICTION DESPITE THE POLICE OFFICERS' NON-COMPLIANCE WITH THE COMPLETE CHAIN OF CUSTODY.[19]

Petitioner argues that the incredible testimonies of the prosecution witnesses relative to the marking of the plastic sachets cast serious doubt on the integrity of the said items. He disagrees that the informant already identified him and Bautista by their full names when he reported the illegal drug activities in the police station because PO1 Madronero and PO3 Modina admitted that at the time the buy-bust operation was conducted, they only knew Bautista by his nickname. Petitioner cites *People v. Umipang (Umipang)*[20] where the Court acquitted accused therein for failure of the prosecution to prove the arresting officer's prior knowledge of his complete name. Thus, he believes that the integrity of the items was compromised because of the suspect circumstances surrounding the marking.

Further, petitioner argues that the several missteps the police officers committed compromised the integrity of the items seized. He highlights that: PO3 Valderama merely placed the seized items in his pocket without placing them in a separate container; the seized items were neither inventoried nor photographed in the presence of a representative from the Department of

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[18] *Rollo*, p. 46.
[19] Id. at 19.
[20] 686 Phil. 1024 (2012).

Justice, the media and any public official; and the buy-bust operation was not coordinated with the PDEA.

In its Comment,[21] the Office of the Solicitor General *(OSG)* countered that the questions raised by petitioner are questions of fact, which cannot be tackled in a petition for review on *certiorari* under Rule 45 of the Rules of Court; that the arresting officers knew the names of petitioner and Bautista; and that it is already too late for petitioner to assail the prosecution's compliance under Sec. 21 of R.A. No. 9165 because objections to the evidence cannot be raised for the first time on appeal.

In its Reply,[22] petitioner reiterates that the apprehending officers did not know their full names at the time of the arrest, hence, it was impossible to mark the confiscated items using their initials; that PO3 Valderama did not properly secure the seized items; and that no inventory and photograph of the seized items were conducted.

The Court's Ruling

The petition is meritorious.

As a rule, questions of fact cannot be entertained by the Court; exceptions

Petitioner essentially assails that the evidence presented by the prosecution did not comply with Sec. 21 of R.A. No. 9165 and the integrity and evidentiary value of the seized items were not properly preserved. The questions posited are evidently factual because it requires compromised examination of the evidence on record. Well settled is the rule that the Court is not a trier of facts. The function of the Court in petitions for review on *certiorari* is limited to reviewing errors of law that may have been committed by the lower courts.[23]

Nevertheless, the Court has enumerated several exceptions to this rule: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the CA are contrary to those of the trial court; (9) the CA manifestly overlooked certain relevant and undisputed facts that, if properly

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[21] *Rollo*, pp. 117-130.
[22] Id. at 151-160.
[23] 750 Phil. 846, 854-855 (2015).

considered, would justify a different conclusion; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.[24]

Here, two of the exceptions exist – that the judgment is based on misapprehension of facts and the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion. As will be discussed *infra,* the CA and the RTC gravely erred in ignoring the utter failure of the prosecution to comply with the chain of custody rule under Sec. 21 of R.A. No. 9165. To finally resolve the factual dispute, the Court deems it proper to tackle the factual questions presented.

The chain of custody rule

Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court until destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.[25] To ensure the establishment of the chain of custody, Sec. 21 (1) of RA No. 9165 specifies that:

> (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.

Sec. 21 (a) of the Implementing Rules and Regulations *(IRR)* of R.A. No. 9165 supplements Section 21 (1) of the said law, viz:

> (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;

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[24] *Carbonell v. Carbonell-Mendes,* 762 Phil. 529, 537 (2015).
[25] Sec. 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002.

> 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[.]

Based on the foregoing, Sec. 21 of R.A. No. 9165 requires the apprehending team, after seizure and confiscation, to immediately conduct a physical inventory; and photograph the same in the presence of **(1) the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) a representative from the media and (3) the DOJ, and (4) any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.**[26]

In addition, Sec. 21 of the IRR of R.A. No. 9165 provides a saving clause which states that non-compliance with these requirements shall not render void and invalid such seizures of and custody over the confiscated items provided that **such non-compliance were under justifiable grounds and the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer or team.**[27]

Notably, Sec. 21 of R.A. No. 9165 was recently amended by R.A. No. 10640, which became effective on July 15, 2014, and it essentially added the provisions contained in the IRR with a few modifications, to wit:

> (1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/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 the amendment of R.A. No. 10640, the apprehending team is now required to conduct a physical inventory of the seized items and photograph

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[26] *People v. Dahil, et al.*, 750 Phil. 212, 228 (2015).
[27] *People v. De la Cruz*, 591 Phil. 259, 271 (2008).

the same in **(1) the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) with an elected public official and (3) 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.[28] In the present case, as the alleged crimes were committed on August 23, 2009, then the provisions of Sec. 21 of R.A. No. 9165 and its IRR shall apply.

The apprehending team failed to observe Sec. 21 of R.A. No. 9165 and its IRR

The prosecution completely failed to present in evidence the inventory and the photographs of the seized items because the apprehending team did not bother to conduct the same. The OSG simply gave a flimsy excuse that petitioner cannot anymore question the apprehending officers' non-compliance with Sec. 21 of R.A. No. 9165 because it is an objection to the evidence which may not be raised for the first time on appeal.[29]

The Court must emphasize that compliance with the requirement under Sec. 21 of R.A. No. 9165 forecloses opportunities for planting, contaminating, or tampering of evidence in any manner.[30] It is essential that the identity of the seized drug/paraphernalia be established with moral certainty,[31] thus, the apprehending officers' compliance with the chain of custody rule can still be tackled on appeal.

The lack of the inventory signed by petitioner himself or by his representative as well as by the representative of the media and the DOJ and the elected official as required by law could very well be held to mean that no dangerous drug had been seized from petitioner on that occasion.[32] The apprehending officers' sheer failure to prepare the required inventory and the taking of photographs demonstrate their apathy to observe Sec. 21 of R.A. No. 9165.

The prosecution failed to provide a justifiable ground for the non-compliance of Sec. 21 of R.A. No. 9165

As a rule, strict compliance with the prescribed procedure under Sec. 21 of R.A. No. 9165 is required because of the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.

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[28] *People v. Dela Rosa*, G.R. No. 230228, December 13, 2017.
[29] *Rollo*, p. 127.
[30] *People v. Saunar*, G.R. No. 207396, August 9, 2017.
[31] *People v. Ching*, G.R. No. 223556, October 9, 2017.
[32] *Casona v. People*, G.R. No. 179757, September 13, 2017.

The exception found in the IRR of R.A. 9165 comes into play when strict compliance with the prescribed procedures is not observed. This saving clause, however, applies only **(1) where the prosecution recognized the procedural lapses, and thereafter explained the cited justifiable grounds, and (2) when the prosecution established that the integrity and evidentiary value of the evidence seized had been preserved.** The prosecution, thus, loses the benefit of invoking the presumption of regularity and bears the burden of proving — with moral certainty — that the illegal drug presented in court is the same drug that was confiscated from the accused during his arrest.[33]

In this case, the prosecution failed to recognize its procedural lapses and give justifiable ground for the non-compliance of Sec. 21 of R.A. No. 9165. Particularly, they were not able to explain the absence of the required inventory and taking of photographs of the seized items at the time of confiscation.

Glaringly, PO3 Valderama admitted that in spite of his knowledge of the requirements under Sec. 21 of R.A. No. 9165, the apprehending team failed to conduct an inventory of the seized items in the presence of petitioner, a representative from the DOJ, the media and any elected official, to wit:

> Q: In other words, there was no inventory, which must be under oath, prepared by your team or the investigator in connection with this alleged recovered or confiscated evidence?
> A: None, sir.
>
> Q: Are you not aware then of the requirement of the law Section 21, paragraph 1 of Republic Act No. 9165 in connection with the preparation of the inventory in the presence [of] a media representative, a barangay official like [a] barangay chairman, or a representative from the Department of Justice [and] the accused or his counsel, are you aware then of that law or requirement?
> A: Yes, sir.
>
> Q: And you failed to comply with this requirement?
> A: Yes, sir.[34]

On re-direct examination, PO3 Valderama could not explain why there was no inventory conducted on the seized drugs, viz:

> Q: Mr. Witness, why did you not prepare an inventory of the confiscated evidence?
> A: The duty investigator failed to do the same, sir.

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[33] *People v. Carlit*, G.R. No. 227309, August 16, 2017, citing *People v. Cayas*, G.R. No. 206888, July 4, 2016, 775 SCRA 459.

[34] TSN, November 10, 2011, p. 20.

> Q: Have you come to know the reason why did the investigator fail to prepare the inventory of the confiscated evidence?
> A: No, sir.[35]

Also, the records are bereft of the photographic copies of the seized items taken in the presence of petitioner, a representative from the DOJ, the media and any elected official. The only photographs taken were that of the marked bills[36] but there was no picture taken of the confiscated drugs. PO3 Modina acknowledged that despite his considerable experience, he failed to photograph the items he allegedly seized from petitioner.[37] Similar to the inventory, the prosecution witnesses could not give a justifiable reason for the non-compliance with the taking of photographs of seized items.

Thus, the arresting officers failed to explain why the procedure under Sec. 21 was not followed. Likewise, the prosecution failed to prove the justifiable reason for such failure.

The integrity and evidentiary value of the seized items were not preserved

Aside from recognizing the procedural lapses and providing a justifiable ground for the non-compliance, it is also required that the prosecution should establish that the integrity and evidentiary value of the seized items were preserved in order to substantially comply with Sec. 21 of R.A. No. 9165. In *People v. Salvador*,[38] the Court explained how the integrity and evidentiary value of the confiscated items are preserved, to wit:

> The integrity and evidentiary value of seized items are properly preserved for as long as the chain of custody of the same are duly established. xxx
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> There are links that must be established in the chain of custody in a buy-bust situation, namely: "*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."[39]

The Court finds that the prosecution was not able to prove that the integrity and evidentiary value of the seized items were preserved due to several irregularities in the chain of custody, as follows:

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[35] Id. at 21.
[36] Records, pp. 7-8.
[37] TSN, March 10, 2011, p. 16.
[38] 726 Phil. 389 (2014).
[39] Id. at 405.

First, the markings placed in the seized items are marred by dubious circumstances. Marking of the seized items is crucial in proving the chain of custody because it serves to separate the marked evidence from the *corpus* of all other similar related evidence from the time they are seized until they are disposed of at the end of the proceedings.[40]

In this case, the drugs were marked with the initials of the arresting officer and the complete name of petitioner, "RRL" for Rommel Ramos *y* Lodronio, and that of Bautista, "RBS" for Rodrigo Bautista *y* Sison. It is, however, unclear whether the police officers already knew the full names of the accused at the time they were arrested and the items were subsequently marked, or only when the accused were brought to the police station.

PO1 Madronero admitted that their confidential informant did not apprise them of the complete name of Bautista, to wit:

> Q: This confidential informant already informed your chief the complete name of Oden?
> A: No sir.[41]

Similarly, PO3 Medina was unaware of the complete names of petitioner and Bautista before they conducted their buy-bust operation because he only referred to them with their aliases, as follows:

> Q: Did you come to know from the informer who was responsible for the selling of marijuana in that area?
> A: Yes, ma'am.
>
> Q: Who?
> A: Alias Odeng and alias Mel, ma'am.[42]

Evidently, it was impossible for the police officers to place the initials of the complete names of petitioner and Bautista, including their middle initials, on the suspected drugs because they only knew of their aliases at the time of their seizure.

In his further testimony, PO3 Medina mentioned the name of petitioner as "Rommel Ramos"[43] but it was not categorically stated whether he knew petitioner's name before he marked the said items or only after petitioner was brought to the police station. Moreover, PO3 Medina never testified that he knew the complete name of petitioner, including his middle

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[40] Supra note 26 at 232.
[41] TSN, June 10, 2010, p. 16.
[42] TSN, March 10, 2011, pp. 4-5.
[43] Id. at 10.

name, "Rommel Ramos *y* Lodronio," the initials of which was written in the confiscated drugs as "RRL." It bolsters the finding that the arresting officers could not have immediately marked the suspected items at the time of the seizure because they did not know Bautista and petitioner's complete names.

In *Umipang*, the Court acquitted therein accused because the chain of custody of the seized items was not properly established. One of the irregularities in that case was that the arresting officers marked the evidence using the initials of the complete name of the accused, including the initial of his middle name, notwithstanding their lack of knowledge of his full name, to wit:

> Evidence on record does not establish that PO2 Gasid had prior knowledge of the complete name of accused-appellant, including the middle initial, which enabled the former to mark the seized items with the latter's complete initials. This suspicious, material inconsistency in the marking of the items raises questions as to how PO2 Gasid came to know about the initials of Umipang prior to the latter's statements at the police precinct, thereby creating a cloud of doubt on the issues of where the marking really took place and whether the integrity and evidentiary value of the seized items were preserved.[44]

Second, the seized items were not properly secured upon confiscation. Aside from marking, the seized items should be placed in an envelope or an evidence bag unless the type and quantity of these items require a different type of handling and/or container. The evidence bag or container shall accordingly be signed by the handling officer and turned over to the next officer in the chain of custody.[45] The purpose of placing the seized item in an envelope or an evidence bag is to ensure that the item is secured from tampering, especially when the seized item is susceptible to alteration or damage.[46]

In this case, PO3 Valderama testified that the pieces of seized items were only placed in his pocket while the arresting officers were on their way to the police station, to wit:

> Q: Now, you said that you marked them at the scene of the crime, did you place them in another container or envelope, sealed it and marked it with your initial to preserve their integrity?
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> A: No, sir.
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> Q: Are you telling us that you just get hold of them, placed them in your pocket without placing them in another container which is

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[44] Supra note 20, p. 1049.
[45] *People v. Martinez*, 652 Phil. 347, 377 (2010).
[46] Supra note 28.

supposed to be the correct manner of handling pieces of evidence confiscated or recovered at the scene of the crime?
A: Yes, sir.

Q: And again you failed to do that?
A: Yes, sir.[47]

Indeed, PO3 Valderama admitted that he did not follow the proper procedure in handling the suspected drugs confiscated at the scene of the crime. Several sachets of suspected drugs with small amounts, particularly 1.78 grams, 1.17 grams, 1.06 grams, 1.29 grams, 1.00 gram, 1.54 grams and 1.01 grams were allegedly confiscated from petitioner and Bautista. Hence, the arresting officers should have secured these items by placing them in a singular evidence bag or plastic container to avoid tampering, planting or alteration. It was only when the arresting officers reached the police station that the seized drugs were turned over to PO3 dela Cruz and that these different pieces of evidence were belatedly placed in a SAID-SAOTG evidence bag.[48] It must be emphasized that a more exacting standard is required of law enforcers when only a miniscule amount of dangerous drugs are alleged to have been seized from the accused.[49]

Third, the prosecution failed to establish who delivered the drugs to investigating officer, PO3 dela Cruz. The second link in the chain of custody is the transfer of the seized drugs by the apprehending officer to the investigating officer. Usually, the police officer who seizes the suspected substance turns it over to a supervising officer, who will then send it by courier to the police crime laboratory for testing. This is a necessary step in the chain of custody because it will be the investigating officer who shall conduct the proper investigation and prepare the necessary documents for the developing criminal case. Certainly, the investigating officer must have possession of the illegal drugs to properly prepare the required documents.[50]

In this case, the investigating officer was PO3 dela Cruz. However, the prosecution's witnesses and documents did not clarify who delivered the seized drugs to the investigating officer. While the suspected drugs were in the pocket of PO3 Valderama when these were transported to the police station, he never stated in his testimony that he was the one who indorsed the said items to PO3 dela Cruz. Verily, there is doubt that the purported seized items from petitioner and Bautista were the same items investigated by PO3 dela Cruz.

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[47] TSN, November 10, 2011, pp. 18-19.
[48] TSN, June 10, 2010, p. 12.
[49] Supra note 30.
[50] *People v. Dahil,* 750 Phil. 212, 235 (2015).

In *People v. Dahil,*[51] the Court acquitted therein accused because of several irregularities in the chain of custody. One of which was that the prosecution failed to establish who turned over the seized items to the investigating officer. It was highlighted therein that it cannot conduct guesswork as to who has custody of the confiscated drugs at any given time.

Given the substantive flaws and procedural lapses, serious uncertainty hangs over the identity of the seized marijuana the prosecution presented as evidence before the Court. In effect, the prosecution failed to fully prove the elements of the crime charged, creating a reasonable doubt on the criminal liability of petitioner.[52]

WHEREFORE, the petition is **GRANTED**. The January 28, 2016 Decision and September 23, 2016 Resolution of the Court Appeals in CA-G.R. CR No. 35751 are hereby **REVERSED** and **SET ASIDE** for failure of the prosecution to prove beyond reasonable doubt the guilt of petitioner Rommel Ramos *y* Lodronio who is accordingly **ACQUITTED** of the crime 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 petitioner Rommel Ramos *y* Lodronio within five (5) days from receipt hereof.

SO ORDERED.

ALEXANDER G. GESMUNDO
Associate Justice

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[51] Id.
[52] Supra note 50 at 239.

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

SAMUEL R. MARTIRES
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

MAR 23 2018