

SUPREME COURT OF THE PHILIPPINES
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Third Division

JUL 19 2019

Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 227497

Present:

-versus-

PERALTA, J., *Chairperson*,
LEONEN,
REYES, A.B., JR.,
HERNANDO, and
CARANDANG,* JJ.

DIOSCORO COMOSO y
TUREMUTSA,
Accused-Appellant.

Promulgated:

April-10, 2019

X-----*Wilfredo V. Lapidan*-----X

DECISION

LEONEN, J.:

Failure to comply with the chain of custody requirements in drugs cases will result in an accused's acquittal.

This resolves an appeal of the October 9, 2015 Decision¹ of the Court of Appeals in CA-G.R. CR-H.C. No. 05992, which affirmed the Regional Trial Court January 22, 2013 Decision.² The trial court convicted accused-appellant Dioscoro Comoso y Turemutsa (Comoso) for violation of Article

* Designated additional Member per Special Order No. 2624 dated November 28, 2018.

¹ *Rollo*, pp. 2-16. The Decision was penned by Associate Justice Noel G. Tijam (now a retired Associate Justice of this Court), and concurred in by Associate Justices Francisco P. Acosta, Jr. and Eduardo B. Peralta, Jr. of the Fourth Division, Court of Appeals, Manila.

² *CA rollo*, pp. 53-59. The Decision, in Crim. Case No. 20176, was penned by Acting Presiding Judge Bienvenido C. Blancaflor of Branch 48, Regional Trial Court, Puerto Princesa City.

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II, Section 5 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

In a March 27, 2005³ Information, Comoso was charged with violation of the Comprehensive Dangerous Drugs Act, particularly for the illegal sale of dangerous drugs. The Information read:

That on or about the 26th day of March 2005, more or less 2:30 o'clock in the afternoon, (*sic*) at Quim[s]on, Barangay Bagong Sikat, Puerto Princesa City, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously sell, convey, distribute and deliver one (1) piece transparent plastic sachet containing dried Marijuana leaves/flowering tops, a dangerous drug weighing more or less 1.1 grams to one poseur-buyer for a consideration of Four Hundred (P400) Pesos, (*sic*) without being authorized by law to convey, distribute and deliver the same, which act is penalized under Section 5, Article II of Republic Act No. 9165.

CONTRARY TO LAW.⁴

Upon arraignment, Comoso pleaded not guilty to the crime charged. Trial on the merits then ensued.⁵

Prosecution witnesses testified that on March 26, 2005, the Anti-Drug Special Operation Task Force and Drug Enforcement Action Division planned a buy-bust operation after receiving information from their civilian asset that a certain "Coro" was selling illegal drugs in Quimson, Barangay Bagong Sikat, Puerto Princesa City. The team prepared four (4) ₱100.00 bills, with Serial Nos. KU494857, MB020653, QQ011743, and DD744924.⁶

At around 2:30 p.m., Police Officer 2 Ferdinand Aquino (PO2 Aquino) and Police Officer 3 Jose Fernandez (PO3 Fernandez) proceeded to the area of the operation. They parked their motorcycle and walked about 50 meters to the target area, where the asset told them to wait since their target, later identified as Comoso, was still playing *tong-its*. The police officers waited by a store, while their asset waited in front of Comoso's house.⁷

Soon after, Comoso arrived. There, he handed a plastic sachet supposedly containing marijuana in exchange for the asset's buy-bust money. The asset, in turn, removed his hat—the pre-arranged signal that the

³ *Rollo*, p. 3.

⁴ *CA rollo*, p. 53.

⁵ *Rollo*, p. 3.

⁶ *CA rollo*, pp. 53–54.

⁷ *Id.* at 53–55.

transaction had been consummated.⁸

Upon seeing the pre-arranged signal, PO2 Aquino and PO3 Fernandez rushed to the scene and arrested Comoso and the asset. PO2 Aquino recovered the plastic sachet from the asset, while PO3 Fernandez frisked Comoso and recovered the buy-bust money, one (1) used marijuana stick, and a lighter. PO2 Aquino then marked both the plastic sachet and the buy-bust money with his initials "FJA."⁹

As they reached the police station, PO2 Aquino also marked the used marijuana stick and lighter. He then prepared an Inventory of Confiscated Items.¹⁰

On April 8, 2005, about two (2) weeks after the buy-bust operation, Police Superintendent Julita T. De Villa (Superintendent De Villa), a forensic chemist at the Philippine National Police Regional Crime Laboratory Office, MIMAROPA, received the samples of seized items and a letter-request for laboratory examination. In Chemistry Report No. D-017-05, she found that the specimens tested positive for marijuana.¹¹

Comoso, a fisher residing on Liberty Road, Barangay Bagong Sikat, Puerto Princesa City, solely testified in his defense. He alleged that in the afternoon of March 26, 2005, on his way home from delivering his catch, he was grabbed and frisked by two (2) armed men, whom he figured were police officers. They first brought Comoso to the airport, then to the police station, where he would be detained.

The police officers recovered from Comoso ₱420.00, the money he had earned from selling fish. He denied having sold illegal drugs.¹²

In its January 22, 2013 Decision,¹³ the Regional Trial Court found Comoso guilty beyond reasonable doubt of violating Article II, Section 5 of the Comprehensive Dangerous Drugs Act. The dispositive portion of the Decision read:

WHEREFORE, in view of the foregoing, the prosecution having satisfactorily proven the guilt of the accused DIOSCORO COMOSO y TUREMUTSA, the Court hereby found him GUILTY beyond reasonable doubt for the crime of Violation of Section 5, Article II of R.A. 9165 for illegal sale of dangerous drugs and to suffer the penalty of life

⁸ Id. at 55.

⁹ Id.

¹⁰ Id.

¹¹ Id. at 54.

¹² Id. at 56.

¹³ Id. at 53-59.

imprisonment and a fine of five hundred thousand pesos (P500,000.00).

The confiscated marijuana used in prosecuting this case is hereby ordered to be turned over to the local office of the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.¹⁴

Comoso appealed before the Court of Appeals, arguing that: (1) the poseu-buyer, the sole witness to the transaction, was never presented as a witness; and (2) the identity and integrity of the *corpus delicti* was not properly established.¹⁵

In its October 9, 2015 Decision,¹⁶ the Court of Appeals dismissed Comoso's appeal and affirmed his conviction.

According to the Court of Appeals, the prosecution's failure to present the informant in court was not fatal to the case since the informant's testimony would merely be corroborative. It held that the testimony of the arresting officer, who witnessed the transaction, was sufficient to prove the prosecution's version of events.¹⁷

Maintaining that the chain of custody was established, the Court of Appeals excused the absence of photographs of the seized items since there were justifiable reasons for noncompliance. It found that the prosecution had duly established that PO2 Aquino had custody of the seized items from their seizure until their turnover to the crime laboratory.¹⁸ Since Comoso failed to present any evidence that the prosecution witnesses had ill motives against him, the Court of Appeals held that the regularity in the performance of official duty should be presumed.¹⁹

Comoso filed a Notice of Appeal.²⁰ His appeal having been given due course, the Court of Appeals elevated the records of this case to this Court.²¹

In its December 5, 2016 Resolution,²² this Court noted the records and directed the parties to file their supplemental briefs. The Office of the Solicitor General, representing plaintiff-appellee People of the Philippines, manifested that it would no longer submit a supplemental brief and moved

¹⁴ Id. at 59.

¹⁵ *Rollo*, p. 8.

¹⁶ Id. at 2–16.

¹⁷ Id. at 10.

¹⁸ Id. at 12–13.

¹⁹ Id. at 14.

²⁰ Id. at 17–19.

²¹ Id. at 20.

²² Id. at 22–23.

that this Court instead consider the arguments in its Brief submitted before the Court of Appeals.²³ Accused-appellant, on the other hand, submitted a Supplemental Brief.²⁴

The Office of the Solicitor General argues that the prosecution has sufficiently established accused-appellant's guilt beyond reasonable doubt since PO2 Aquino witnessed the entire exchange and was able to testify to the sequence of events. It claims that in drugs cases, the police officers' narration of facts should be given credence as they are presumed to have regularly performed their duties.²⁵

The Office of the Solicitor General further asserts that despite changes in the seized item's custody and possession, their identity had been proven by the totality of the prosecution's evidence. Maintaining that the chain of custody remained unbroken, it argues that the "integrity of the evidence is presumed preserved unless there is a showing of bad faith, ill will[,] or proof that evidence has been tampered with[.]"²⁶

Accused-appellant, on the other hand, counters that PO2 Aquino did not testify that the seized items were marked or inventoried in front of him. He points out that there were no photographs of the seized items taken, and that he did not sign the inventory of seized items. Moreover, he claims that the prosecution failed to prove that there was no "possibility of switching, planting, or contamination."²⁷

Accused-appellant contends that the chain of custody was not established, pointing out that there was no transfer of the seized items from the arresting officer to the investigating officer. He further notes that it was not explained how the seized items were handled from the crime laboratory to the forensic chemist, the transfer of which took 11 days from March 28 to April 8, 2005. This, he argues, puts a "cloud of doubt and suspicion as to the supposed preservation of the integrity and evidentiary value"²⁸ of the *corpus delicti*.²⁹

The sole issue for this Court's resolution is whether or not the prosecution proved accused-appellant Dioscoro Comoso y Turemusta's guilt beyond reasonable doubt for violating Article II, Section 5 of the Comprehensive Dangerous Drugs Act despite not strictly complying with the

²³ Id. at 24–29.

²⁴ Id. at 30–43.

²⁵ CA *rollo*, pp. 87–93.

²⁶ Id. at 94.

²⁷ *Rollo*, p. 33.

²⁸ Id. at 36.

²⁹ Id. at 35–37.

requisites for preserving the integrity and evidentiary value of the *corpus delicti*:

I

An accused is presumed innocent until the contrary is proven.³⁰ To secure conviction, the prosecution must overcome this presumption by presenting evidence of the accused's guilt beyond reasonable doubt of the crime charged. Rule 133, Section 2 of the Rules of Court provides:

SECTION 2. *Proof beyond reasonable doubt.* — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

A guilty verdict relies on the strength of the prosecution's evidence, not on the weakness of the defense.³¹

Proof beyond reasonable doubt is ultimately a matter of conscience. Though it does not demand absolutely impervious certainty, it still charges the prosecution with the immense responsibility of establishing moral certainty. Much as it ensues from benevolence, it is not merely engendered by abstruse ethics or esoteric values; it arises from a constitutional imperative[.]³²

The burden of proof lies with the prosecution. Failure to discharge this burden warrants an accused's acquittal.

II

The sale of illegal drugs is punished under Article II, Section 5 of the Comprehensive Dangerous Drugs Act:

SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in

³⁰ CONST, art. III, sec. 14(2).

³¹ See *People v. Macasinag*, 255 Phil. 279 (1989) [Per J. Cruz, First Division].

³² J. L. Goen, Concurring Opinion in *People v. Lim*, G.R. No. 231989, September 4, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>> [Per J. Peralta, En Banc].

transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

To secure conviction, the prosecution must prove the following elements: “(1) proof that the transaction or sale took place[;] and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.”³³

Evidence proving that a transaction took place “must be credible and complete.”³⁴ In buy-bust operations, this is usually proven by the testimony of the poseur-buyer.

In *People v. Andaya*,³⁵ the prosecution failed to present their informant, who was also their poseur-buyer, to testify on the sale of illegal drugs. Despite the police officers occupying “different positions where they could see and observe the asset[;]”³⁶ this Court noted that none of them had witnessed the transaction and only acted upon the informant/poseur-buyer’s pre-arranged signal. This proved fatal to the prosecution’s case:

Here, the confidential informant was not a police officer. He was designated to be the poseur buyer himself. It is notable that the members of the buy-bust team arrested Andaya on the basis of the pre-arranged signal from the poseur buyer. The pre-arranged signal signified to the members of the buy-bust team that the transaction had been consummated between the poseur buyer and Andaya. However, the State did not present the confidential informant/poseur buyer during the trial to describe how exactly the transaction between him and Andaya had taken place. There would have been no issue against that, except that none of the members of the buy-bust team had directly witnessed the transaction, if any, between Andaya and the poseur buyer due to their being positioned at a distance from the poseur buyer and Andaya at the moment of the supposed transaction.³⁷

Andaya recognized that not presenting the informant was different from not presenting the poseur-buyer. As held in prior cases,³⁸ there was no need to present the confidential informant since the testimony would merely corroborate the testimonies of those who actually witnessed the transaction. The case is different, however, if the confidential informant and the poseur-buyer were one and the same person:

³³ *People v. Morales*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division] citing *People v. Darisan*, 597 Phil. 479 (2009) [Per J. Corona, First Division].

³⁴ *People v. Andaya*, 745 Phil. 237, 247 (2014) [Per J. Bersamin, First Division].

³⁵ 745 Phil. 237 (2014) [Per J. Bersamin, First Division].

³⁶ Id. at 241–242.

³⁷ Id. at 247.

³⁸ *People v. Andaya*, 745 Phil. 237 (2014) [Per J. Bersamin, First Division] citing *People v. Khor*, 366 Phil. 762 (1999) [Per J. Gonzaga-Reyes, Third Division]; *People v. Gireng*, 311 Phil. 12 (1995) [Per J. Bellosillo, First Division]; *People v. Ong*, 476 Phil. 553 (2004) [Per J. Puno, En Banc]; and *People v. Lopez*, 288 Phil. 1107 (1992) [Per J. Melo, Third Division].

The presentation of the confidential informants as witnesses for the Prosecution in those instances could be excused because there were poseur buyers who directly incriminated the accused. In this case, however, it was different, because the poseur buyer and the confidential informant were one and the same. Without the poseur buyer's testimony, the State did not credibly incriminate Andaya.³⁹

As with *Andaya*, the confidential informant here, despite also acting as the poseur-buyer, was never presented to testify to the transaction. Nonetheless, PO2 Aquino testifying that he had witnessed the entire transaction⁴⁰ suffices to prove the offense's first element—that the transaction took place absent any irregularity in the performance of law enforcers' duties.

This, however, does not suffice to overcome the presumption of innocence. To do so, the prosecution must prove the second element of the offense, or the existence of the *corpus delicti*.

In proving the second element of the offense, the prosecution must establish compliance with the chain of custody requirements outlined in Section 21 of the Comprehensive Dangerous Drugs Act, as amended by Republic Act No. 10640:

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/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

³⁹ Id. at 248.

⁴⁰ CA rollo, p. 55.

preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items[;]

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: *Provided*, That when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued immediately upon completion of the said examination and certification[.] (Emphasis in the original)

Chain of custody in the seizure of illegal drugs is defined as:

. . . 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 for 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.⁴¹

Moreover, every link in the chain of custody, as summarized in *People v. Nandi*,⁴² must be established:

[F]irst, 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.⁴³

Here, PO2 Aquino, the apprehending officer, testified that he had seized the plastic sachet from accused-appellant and marked it with his own

⁴¹ *People v. Climaco*, 687 Phil. 593, 604 (2012) [Per J. Carpio, Second Division] *citing* Dangerous Drugs Board Regulation No. 1 (2002), sec. 1.

⁴² 639 Phil. 134 (2010) [Per J. Mendoza, Second Division].

⁴³ *Id.* at 144–145 *citing* *People v. Kamad*, 624 Phil. 289 (2010) [Per J. Brion, Second Division].

initials, “FJA.” He added that he had also prepared the Inventory of Confiscated Items and brought the seized items to the crime laboratory.⁴⁴

However, it remained unclear from PO2 Aquino’s testimony if: (1) he conducted the inventory before accused-appellant; (2) the inventory was signed by accused-appellant; and (3) PO2 Aquino turned the items over to an investigating officer. He testified:

Q Now, Mr. Witness, you said that you got the plastic sachet containing this illegal drug from your civilian asset, could you tell us what did you do to this plastic sachet containing illegal drug (*sic*) or marijuana leaves?

A *I marked it with my initials and brought it in (sic) the crime lab.*

Q What mark did you place, Mr. Witness?

A My initials.⁴⁵ (Emphasis supplied)

The prosecution further presented evidence that Superintendent De Villa, the forensic chemist, only received the seized items on April 8, 2005,⁴⁶ or 10 working days after the buy-bust operation on March 26, 2005. This is obviously beyond the 24-hour period required by law, a delay for which the prosecution has not been able to explain. This creates reasonable doubt on whether the illegal drug turned over to the forensic chemist was the same illegal drug seized from accused-appellant:

This break in the chain of custody opens up the possibility of substitution, alteration, or tampering of the seized drugs during the turn over to the chemist, especially since the amount was as little as 0.02 grams. Thus, the illegal drugs tested by the chemist may not be the same items allegedly seized by the buy-bust team from accused-appellant. The doubt that the break created should have been enough to acquit accused-appellant.⁴⁷

Worse, nothing in the records shows that the witnesses required to be present and sign the inventory—an elected public official and a representative of the National Prosecution Service or the media—were present, even though this was a pre-planned entrapment operation. Moreover, the prosecution did not justify the law enforcement officers’ noncompliance with the chain of custody. It merely stated that “the integrity of the evidence is presumed preserved unless there is a showing of bad faith, ill will[,] or proof that the evidence has been tampered with.”⁴⁸

⁴⁴ CA rollo, p. 58.

⁴⁵ *Id.*

⁴⁶ *Id.* at 54.

⁴⁷ J. Leonen, Concurring Opinion in *People v. Lim*, G.R. No. 231989, September 4, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>> [Per J. Peralta, En Banc].

⁴⁸ CA rollo, p. 94.

Generally, noncompliance with these requirements would not have rendered the search and seizure invalid “under justifiable grounds.”⁴⁹ However, the absence of *any* justification only serves to magnify the irregularity of the police officer’s performance of their official duties:

To sanction non-compliance, two requisites must be satisfied. First, the prosecution must identify and prove “justifiable grounds.” Second, it must show that, despite non-compliance, the integrity and evidentiary value of the seized items were properly preserved. To satisfy the second requirement, the prosecution must establish that positive steps were observed to ensure such preservation. The prosecution cannot rely on broad justifications and sweeping guarantees that the integrity and evidentiary value of seized items were preserved.⁵⁰

The prosecution cannot merely sweep the police officers’ lapses under the mantle of the presumption of regularity in the performance of their official duties. This presumption only applies when nothing in the evidence shows that the police officers deviated from the standard procedures required by law. In *People v. Kamad*:⁵¹

Given the flagrant procedural lapses the police committed in handling the seized shabu and the obvious evidentiary gaps in the chain of its custody, a presumption of regularity in the performance of duties cannot be made in this case. A presumption of regularity in the performance of official duty is made in the context of an existing rule of law or statute authorizing the performance of an act or duty or prescribing a procedure in the performance thereof. The presumption applies when nothing in the record suggests that the law enforcers deviated from the standard conduct of official duty required by law; where the official act is irregular on its face, the presumption cannot arise. In light of the flagrant lapses we noted, the lower courts were obviously wrong when they relied on the presumption of regularity in the performance of official duty.⁵²

The law’s stringent requirements are not designed to hamper police operations with needless procedural minutiae. They merely ensure that courts can, with reasonable moral certainty, guarantee that the illegal drug presented by the prosecution is the same illegal drug that was seized from the accused:

Compliance with Section 21’s chain of custody requirements ensures the integrity of the seized items. Conversely, non-compliance with it tarnishes the credibility of the *corpus delicti* around which prosecutions under the Comprehensive Dangerous Drugs Act revolve.

⁴⁹ J. Leonen, Concurring Opinion in *People v. Lim*, G.R. No. 231989, September 4, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>> [Per J. Peralta, En Banc].

⁵⁰ Id.

⁵¹ 624 Phil. 289 (2010) [Per J. Brion, Second Division].

⁵² Id. at 311 citing *People v. Obmiranis*, 594 Phil. 561 (2008) [Per J. Tinga, Second Division].

Consequently, they also tarnish the very claim that an offense against the Comprehensive Dangerous Drugs Act was committed.

Fidelity to chain of custody requirements is necessary because, by nature, narcotics may easily be mistaken for everyday objects. Chemical analysis and detection through methods that exceed human sensory perception (such as, specially trained canine units and screening devices) are often needed to ascertain the presence of dangerous drugs. The physical similarity of narcotics with everyday objects facilitates their adulteration and substitution. It also makes conducive the planting of evidence. In *Mallillin v. People*:

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases by accident or otherwise - in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.

People v. Holgado, et al., recognized that:

Compliance with the chain of custody requirement . . . ensures the integrity of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia in four (4) respects: first, the nature of the substances or items seized; second, the quantity (e.g., weight) of the substances or items seized; third, the relation of the substances or items seized to the incident allegedly causing their seizure; and fourth, the relation of the substances or items seized to the person/s alleged to have been in possession of or peddling them. Compliance with this requirement forecloses opportunities for planting, contaminating, or tampering of evidence in any manner.

When the identity of *corpus delicti* is jeopardized by non-compliance with Section 21, the second element of the offense of illegal sale of dangerous drugs remains wanting. It follows then, that this non-compliance justifies an accused's acquittal. In *People v. Lorenzo*:

In both illegal sale and illegal possession of prohibited drugs, conviction cannot be sustained if there is a persistent doubt on the identity of the drug. The identity of the prohibited drug must be established with moral certainty. Apart from showing that the elements of possession or sale are present, the fact that the substance

illegally possessed and sold in the first place is the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.⁵³ (Emphasis supplied)

Indeed, the often minuscule amounts of dangerous drugs seized by law enforcement officers compel courts to be more circumspect in the examination of the evidence. Reasonable doubt arises in the prosecution's narrative when the links in the chain of custody cannot be properly established. There is no guarantee that the evidence had not been tampered with, substituted, or altered. In *People v. Holgado*:⁵⁴

Trial courts should meticulously consider the factual intricacies of cases involving violations of Republic Act No. 9165. All details that factor into an ostensibly uncomplicated and barefaced narrative must be scrupulously considered. Courts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving minuscule amounts of drugs. These can be readily planted and tampered. Also, doubt normally follows in cases where an accused has been discharged from other simultaneous offenses due to mishandling of evidence. Had the Regional Trial Court and the Court of Appeals been so judicious in this case, a speedier resolution would have been handed to Holgado and Misarez whose guilt beyond reasonable doubt was not established.⁵⁵

This Court has already recognized the numerous "orchestrated or poorly built up drug-related cases"⁵⁶ that have been languishing in the clogged dockets of our lower courts. Thus, in *People v. Lim*,⁵⁷ this Court mandated the policy that must be followed in prosecuting drugs cases:

[T]o weed out early on from the courts' already congested docket any orchestrated or poorly built up drug-related cases, the following should henceforth be enforced as a mandatory policy:

1. In the sworn statements/affidavits, the apprehending/seizing officers must state their compliance with the requirements of Section 21 (1) of R.A. No. 9165, as amended, and its IRR.
2. In case of non-observance of the provision, the apprehending/seizing officers must state the justification or explanation therefor as well as the steps they have taken in order to preserve the integrity and evidentiary value of the seized/confiscated items.

⁵³ J. Leonen, Concurring Opinion in *People v. Lim*, G.R. No. 231989, September 4, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>> [Per J. Peralta, En Banc] citing *Mallillin v. People*, 576 Phil. 576 (2008) [Per J. Tinga, Second Division]; *People v. Holgado*, 741 Phil. 78 (2014) [Per J. Leonen, Third Division]; and *People v. Lorenzo*, 633 Phil. 393 (2010) [Per J. Perez, Second Division].

⁵⁴ 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

⁵⁵ Id. at 100.

⁵⁶ *People v. Lim*, G.R. No. 231989, September 4, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>> [Per J. Peralta, En Banc].

⁵⁷ Id.

3. If there is no justification or explanation expressly declared in the sworn statements or affidavits, the investigating fiscal must not immediately file the case before the court. Instead, he or she must refer the case for further preliminary investigation in order to determine the (non) existence of probable cause.

4. If the investigating fiscal filed the case despite such absence, the court may exercise its discretion to either refuse to issue a commitment order (or warrant of arrest) or dismiss the case outright for lack of probable cause in accordance with Section 5, Rule 112, Rules of Court.⁵⁸ (Citation omitted)

Lim serves as a clarion call to law enforcement officers and those involved in the prosecution of drugs cases to be more circumspect in the performance of their duties. Because the prosecution was unable to establish accused-appellant's guilt beyond reasonable doubt, the presumption of innocence must prevail. Accused-appellant must, thus, be acquitted.

WHEREFORE, the appeal is **GRANTED**. The Court of Appeals October 9, 2015 Decision in CA-G.R. CR-H.C. No. 05992 is **REVERSED** and **SET ASIDE**. Accused-appellant Dioscoro Comoso y Turemutsa is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** unless he is confined for any other lawful cause.

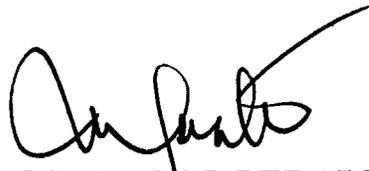
Let a copy of this Decision be furnished to the Superintendent of the Iwahig Prison and Penal Farm, Puerto Princesa City for immediate implementation. The Superintendent is **ORDERED** to **REPORT** the action he or she has taken to this Court within five (5) days from receipt of this Decision.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

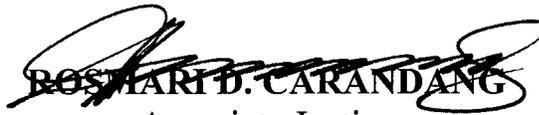
⁵⁸ Id.

WE CONCUR:



DIOSDADO M. PERALTA
Associate Justice
Chairperson

^{Reyes}
ANDRES B. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice
ROSMARIE B. CARANDANG
Associate Justice

ATTESTATION

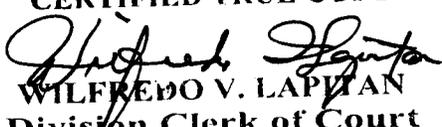
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

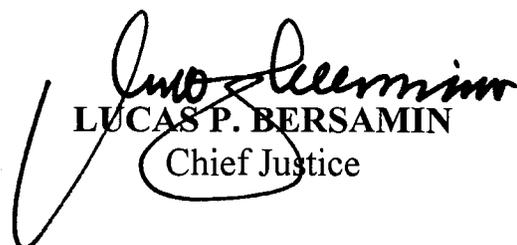


DIOSDADO M. PERALTA
Associate Justice
Chairperson

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.

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division


LUCAS P. BERSAMIN
Chief Justice

JUL 19 2019