



SUPREME COURT
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Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 233466

Present:

- versus -

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

MARK ANDREW PAZ y
ROCAFORD,
 Accused-Appellant.

Promulgated:

August 7, 2019

Mrs. PDC Batt

X-----X

DECISION

PERALTA, J.:

Before this Court is an appeal from the March 21, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08042 which affirmed the January 22, 2016 Decision² of the Regional Trial Court (RTC) of Caloocan City, Branch 127, finding accused-appellant Mark Andrew Paz y Rocaford (Paz) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The facts are as follows:

¹ Rollo, pp. 2-17. Penned by Associate Justice Pedro B. Corales, with the concurrence of Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier (now a member of this Court).

² CA rollo, pp. 11-29. Penned by Presiding Judge Victoriano B. Cabanos.

Paz was indicted for violation of Section 5, Article II of R.A. No. 9165 in an Information dated May 10, 2013. The accusatory portion reads:

That on or about the 9th day of May, 2013 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 wil[l]fully, unlawfully and feloniously sell and deliver to IO1 REAGAN B. SILVERIO, who posed as buyer, Two (2) heat-sealed transparent plastic sachets each later marked as RBS-1 05/09/13 and RBS-2 05/09/13 containing METHAMPHETAMINE HYDROCHLORIDE (Shabu) weighing 4.1001 grams & 3.2714 grams, which when subjected for laboratory examination gave POSITIVE result to the tests for Methamphetamine Hydrochloride, a dangerous drug, and knowing the same to be such.³

When arraigned, Paz pleaded not guilty to the charge. After termination of the pre-trial, trial on the merits ensued.

The evidence for the prosecution established that at 10:00 a.m. on May 8, 2013, Intelligence Officer (IO) 2 Leverette Lopez of the Philippine Drug Enforcement Agency (PDEA) received information from the confidential informant (CI) about the illicit drug activities of a certain “*Bakla*,” later identified as Paz, in Tala, Caloocan City. On the same day, IO2 Lopez formed a team for a buy-bust operation with IO1 Reagan Silverio as poseur-buyer and IO1 Al Vincent Ma Delgado as back-up arresting officer, and other operatives as perimeter security.⁴

It was decided in the briefing that IO1 Silverio would buy ten (10) grams of *shabu*, worth ₱40,000.00, from Paz in front of the gate of Tala Leprosarium Hospital, Caloocan City. The buy-bust money was composed of one Five Hundred Peso bill and five One Hundred Peso bills, which were marked “RBS,” and boodle money for the rest of the amount. After dinner, the team divided into two groups, and boarded the maroon Toyota Revo service vehicle and a private vehicle. They fetched the CI at a fast-food chain in Quezon City before proceeding to the target area. They had a final briefing at a distance from the hospital. Thereafter, IO1 Silverio and the CI proceeded outside the gate, while the rest alighted and positioned themselves strategically.⁵

After about an hour, Paz, clad in pink shirt, black blazer, and jeans, arrived. The CI instructed Paz through a text message to board the maroon Toyota Revo. After Paz boarded at the back seat, IO1 Silverio asked “*Tol, dala mo yong basura?*” to which Paz replied, “*Ipakita mo muna pera[.]*” He relented at IO1 Silverio’s insistence, and handed a brown envelope sealed with an electrical tape. IO1 Silverio tore the tape and saw two plastic sachets,

³ Records, p. 2.

⁴ CA rollo, pp. 14-15.

⁵ Rollo, pp. 4-5

containing white crystalline substance, inside the envelope. Upon examination, IO1 Silverio surmised that there was a high probability that it was *shabu* since it was brittle. He placed the sachets inside his clutch bag and tendered the payment. While Paz was counting the money, IO1 Silverio executed the pre-arranged signal by turning the hazard light on. He then introduced himself as a PDEA agent.⁶

IO1 Delgado and the team darted towards the vehicle upon seeing the blinking hazard light. He boarded at the rear, sat beside Paz, introduced himself, and informed the latter of his rights. He recovered from Paz the buy-bust money and a cellphone, and gave the same to IO1 Silverio. IO2 Lopez ordered the team to return to their office as a crowd was starting to gather. Thereafter, IO1 Silverio conducted an inventory of the seized items and took photographs thereof. *Barangay Kagawad* Jose Y. Ruiz, Jr. of *Barangay Pinyahan*, District IV, Quezon City witnessed the inventory and was among those who signed the same.⁷

IO2 Lopez prepared the requests for examination, while IO1 Silverio delivered the requests and the seized items to the PDEA Crime Laboratory. Forensic Chemist Ariane Arcos received the items and the requests. She tested the specimens which later yielded positive for the presence of methamphetamine hydrochloride as per Chemistry Report No. PDEA-DD013-112.⁸

In defense, Paz claimed that he was framed-up. Around 10:00 p.m. on May 8, 2013, he was walking near the Tala Leprosarium Hospital when three men accosted and forced him into a vehicle. They threatened him, "*Ilabas mo na para di ka masaktan*" to which he denied producing anything. They brought him to the Quezon City Memorial Circle where they asked him for money. Then, they directed him to call anyone who could help him produce the money. He was brought to *Barangay Pinyahan*, Quezon City, and later to the PDEA office. In the office, two plastic sachets of white crystalline substance on a plate and a bundle of money, which were both allegedly seized from him, were shown to him.⁹

In a Decision dated January 22, 2016, the RTC found Paz guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs. The *fallo* of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring accused Mark Andrew Paz y Rocaford in Criminal Case [No. 89942] for violation of Sec. 5, Art. II[,] R.A. 9165 guilty beyond reasonable

⁶ *Id.* at 5.

⁷ *Id.* at 6.

⁸ Records, p. 14.

⁹ *Rollo*, pp. 6-7.

doubt and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand ([P]500,000.00) Pesos.

The drug subject of this instant case is hereby ordered forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.¹⁰

The trial court held that the prosecution duly proved and established the elements of illegal sale of dangerous drugs. IO1 Silverio, the poseur-buyer, disclosed that Paz was caught *in flagrante delicto* selling ₱40,000.00 worth of *shabu*. Paz received the marked money along with the boodle money from IO1 Silverio after he offered the brown envelope containing two plastic sachets of suspected *shabu*. The RTC gave more credence to the positive and straightforward testimony of IO1 Silverio as against Paz's bare denial and defense of frame-up. Paz never presented any witness to support his claim considering that there were passersby on the road at that time. As a hairdresser for three and a half years in the area where he also resides, he will be easily recognized, thus, it would have been easy for him to seek assistance from anyone to inform any of his relatives or friends about his alleged ordeal.¹¹ The inconsistencies in IO1 Delgado's affidavit and testimony as to the date of the commission of the offense, and that of IO1 Silverio's affidavit and testimony on whether the team leader and the CI made the negotiation with Paz are inconsequential for they had nothing to do with the elements of illegal sale of dangerous drugs. The minor inconsistencies in the narration of the witness do not detract from its essential credibility as long as it is, on the whole, coherent and intrinsically believable.¹²

On appeal, the CA affirmed the decision of the RTC. It pointed out that there were indeed obvious flaws in the compliance with the procedures laid down in Section 21 of R.A. No. 9165, considering that the seized items were marked and inventoried at the PDEA office and no representative from the media and the Department of Justice (*DOJ*) was present. However, it ruled that the lapses are not fatal and will not render the seized items inadmissible as evidence.¹³ The prosecution has proven the integrity and evidentiary value of the illegal drugs. IO1 Silverio did not part with the plastic sachets from the place of arrest until they reached the PDEA office. He marked the seized items with RBS-1 05/09/13 and RBS-2 05/09/13, prepared the inventory, and photographed the same in the presence of *Barangay Kagawad* Ruiz. IO1 Silverio personally delivered the items to the PDEA Crime Laboratory.¹⁴ The non-presentation of the evidence custodian does not diminish the integrity and evidentiary value of the seized items. When the defense agreed to dispense with the testimony of the forensic chemist, it effectively waived the opportunity to question her on the matter. Lapses in the safekeeping of seized

¹⁰ CA rollo, p. 29.

¹¹ *Id.* at 26.

¹² *Id.* at 28-29.

¹³ Rollo, p. 13.

¹⁴ *Id.* at 14.

illegal drugs that affected their integrity and evidentiary value should be raised at the trial court level. The totality of the testimonial and documentary evidence presented adequately established not only the elements of illegal sale of drugs, but also accounted for the unbroken chain of custody. The decretal portion of the decision reads:

WHEREFORE, the instant appeal is hereby **DENIED**. The January 22, 2016 Decision of the Regional Trial Court, Branch 127, Caloocan City in Crim. Case No. C-89942 is **AFFIRMED**.

SO ORDERED.¹⁵ (Emphases in the original.)

In a Resolution¹⁶ dated November 6, 2017, this Court required the parties to submit their respective supplemental briefs, if they so desire. In his Manifestation in Lieu of a Supplemental Brief¹⁷ dated January 24, 2018, Paz opted not to file a supplemental brief since no new issue material to the case was discovered. Also, the Office of the Solicitor General, in its Manifestation and Motion in lieu of Supplemental Brief¹⁸ dated January 29, 2018, informed the Court that it elects to dispense with the filing of a supplemental brief considering that the facts, issues, and arguments in the case have been succinctly amplified in its Brief for the Appellee dated December 9, 2016.

Paz prays for his acquittal. Essentially, he argues that the prosecution failed to establish the unbroken chain of custody of the seized sachets of *shabu* from the moment of their seizure until their presentation before the court. The marking, inventory and photographing of the confiscated items were not executed at the place of seizure in Caloocan City, but at the PDEA office in Quezon City. IO1 Silverio never mentioned if he marked the items in the presence of Paz. Lastly, the inventory was not done in the presence of a representative from the DOJ and the media.

The appeal has merit.

It is settled that an appeal in a criminal case throws the whole records of the case open for review and it is the duty of the appellate court to correct, cite and appreciate errors that may be found in the appealed judgment whether they are assigned or unassigned.¹⁹ Given the unique nature of an appeal in a criminal case, an examination of the entire records of the case may be explored for the purpose of arriving at a correct conclusion as the law and justice dictate.



¹⁵ *Id.* at 16.

¹⁶ *Id.* at 24.

¹⁷ *Id.* at 26-28.

¹⁸ *Id.* at 31-33.

¹⁹ *People v. Kamad*, 624 Phil. 289, 299 (2010).

Jurisprudence holds that the trial court's findings of fact are entitled to great weight and will not be disturbed on appeal, especially when affirmed by the CA. However, the same rule admits of exceptions such as where facts of weight and substance, with direct and material bearing on the final outcome of the case, have been overlooked, misapprehended or misapplied.²⁰ After due consideration of the records of the case and the relevant law and jurisprudence, the Court finds that this case falls under the exception.

Paz was charged with the crime of Illegal Sale of *shabu*. In order to properly secure the conviction of an accused charged with Illegal Sale of Dangerous Drugs, the prosecution must prove: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.²¹

The identity of the prohibited drug must be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. Thus, in order to obviate any unnecessary doubt on its identity, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.²²

Section 21 of R.A. No. 9165, as amended by R.A. No. 10640,²³ provides for the procedural safeguards in the handling of seized drugs by the apprehending officer/team, to wit:

SEC. 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

²⁰ *People v. Morales y Midarasa*, 630 Phil. 215, 227-228 (2010).

²¹ *People v. Sumili*, 753 Phil. 342, 348 (2015).

²² *People v. Viterbo, et al.*, 739 Phil. 593, 601 (2014).

²³ 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.

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.

From the foregoing, Section 21 now only requires **two (2) witnesses** to be present during the conduct of the physical inventory and taking of photograph of the seized items, namely: (a) an elected public official; **and** (b) either a representative from the DOJ **or** the media.

However, under the original provision of Section 21 and its IRR, which is applicable at the time Paz committed the offense charged, the apprehending team was required to immediately conduct a physical inventory and photograph the drugs after their seizure and confiscation in the presence of no less than **three (3) witnesses**, namely: (a) a representative from the **media and** (b) the **DOJ, and** (c) any **elected public official** who shall be required to sign copies of the inventory and be given a copy thereof.

Since compliance with the procedure in Section 21 is determinative of the integrity and evidentiary value of the *corpus delicti* and, ultimately, the fate of the liberty of the accused, the appellate court, including this Court, is not precluded from fully examining the records of the case if only to ascertain whether the procedure had been completely complied with, and if not, whether justifiable reasons exist to excuse any deviation. If no such reasons exist, then it is the appellate court's bounden duty to acquit the accused and, perforce, overturn a conviction.²⁴

Records reveal that the prosecution failed to prove compliance with the procedures under Section 21 of R.A. No. 9165, thereby putting into question the integrity and evidentiary value of the sachets of *shabu* supposedly seized from Paz. Poseur-buyer IO1 Silverio testified that he marked the seized items at the PDEA office, to wit:

Q And if shown to you, can you still identify the plastic sachets you bought from the accused?

A Yes, ma'am.

Q How will you be able to do so?

A I put a marking ma'am.

Q What markings did you place on the plastic sachets?

A Ma'am, the initials of my name and the date of the arrest.

²⁴ *People v. Jovencito Miranda y Tigas*, G.R. No. 229671, January 31, 2018.

Q Can you just tell what does it read?
A RBS and the date.

x x x x

Q Both RBS?
A No, ma'am.

Q What?
A I already forgot ma'am but I put on the plastic sachets 1 and 2.

x x x x

Q The buy bust money was taken by Delgado from the hand of the accused, still in the hand of the accused?
A Yes, ma'am.

Q You said Delgado conducted further searched (*sic*) on the body of the accused and he frisked him, from where was the cellphone taken?
A "ma'am, hindi na po ako naki-alam sa kanya."

Q So, the frisking was all [d]one by Delgado?
A [Y]es, ma'am.

Q And he handed to you this cellphone also?
A Yes, ma'am.

Q All these were in your custody together with the specimen from the place of arrest outside the gate of Tala until you arrive[d] at your office?
A Yes, ma'am.

Q And where did you proceed?
A Ma'am, at the office.

Q PDEA office?
A At the PDEA headquarters.

Q Main?
A Yes, ma'am.

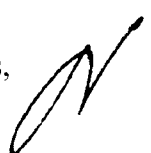
Q And what office at PDEA did you go?
A Ma'am, at the PDEA-RO-NCR office ma'am.

Q What office in the PDEA there, particular office?
A At the receiving area.

Q Was it the same place where you conducted the investigation of the accused?
A Ma'am, what investigation, is that the inventory?

Q Yes, the investigation consisting of inventory and taking of the documents.
A Yes, ma'am.

Q So, what office is that?
A At the PDEA-RO-NCR ma'am, behind the main headquarters, ma'am.



- Q And who investigated the accused there?
A I was the one who investigated the accused ma'am.
- Q And that investigation, does it consist also of taking of his personal circumstances and picture taking?
A Yes, ma'am.
- Q Of evidences (*sic*)?
A Yes, ma'am.
- Q You mentioned about inventory, was it done also there?
A Yes, ma'am.

x x x x

- Q Were you also the one who took pictures?
A Ma'am, yes, ma'am.²⁵

Marking is the placing by the arresting officer or the poseur-buyer of his/her initials and signature on the items after they have been seized. It is the starting point in the custodial link. It is vital that the seized items be marked immediately since the succeeding handlers thereof will use the markings as reference.²⁶ The rule also requires that the marking of the seized contraband be done "(1) in the presence of the apprehended violator, and (2) immediately upon confiscation."²⁷ Here, there is no showing that the marking was accomplished in the presence of Paz. All that was established was that, while at the PDEA office, IO1 Silverio marked the sachets with "RBS-1 05/09/13" and "RBS-2 05/09/13," while the other details are left out for this Court to speculate.

Moreover, the absence of a representative from the DOJ and the media is readily apparent in the Inventory of Seized Properties/Items²⁸ where only *Barangay Kagawad* Ruiz's signature appeared in the said document for the required witnesses. Also, in IO1 Delgado's affidavit,²⁹ he declared:

Before starting with the inventory, the team first secured the presence of the required witnesses under section 21 of R.A.[.] 9165, we managed to get elected public official in the personality of Brgy. Kagawad **Jose Y Ruiz of Brgy. Pinyahan, Quezon City.**³⁰ (Emphasis in the original.)

The testimony of IO1 Delgado further confirms the failure of the apprehending team to observe the proper procedure mandated by Section 21:

²⁵ TSN, February 6, 2014, pp. 28-32.
²⁶ *People v. Alejandro*, 671 Phil. 33, 46 (2011).
²⁷ *Id.* at 47.
²⁸ Records, p. 17.
²⁹ *Id.* at 8-9.
³⁰ *Id.* at 8.

Q: So, upon reaching the gate near the gate (*sic*) of the Tala Leprosarium you already alighted from your vehicle?

A: Yes, ma'am.

Q: And where did you specifically positioned yourself?

A: Around 7 to 10 meters away from the vehicle, ma'am.

Q: From where you were positioned Mr. Witness, could you directly observe what is going on in the vehicle?

A: No, ma'am.

Q: So, my question now is, how will you be able to determine that the transaction was already consummated?

A: When the pre-arranged signal was executed by blinking of the hazard light, ma'am.

x x x x

Q: And Mr. Witness, what happened after you reached your office, the PDEA office?

A: **When we reached the PDEA office we process[ed] the arrested person, we subjected him to medical and physical examination, drug testing and then he was turned over to the investigator of PDEA office, ma'am.**

Q: During **that investigation of the person at the PDEA office was there any pictures taken?**

A: **Yes, ma'am.**

Q: Inventory **of evidence?**

A: **Yes, ma'am.**

Q: **Was there a turn over (*sic*) also?**

A: **Yes, ma'am.**

x x x x

Q: Who took these pictures, if you know?

A: I **don't** remember anymore, ma'am.

Q: What you remember is that the pictures that were reflected herein were actually transpired during investigation?

A: Yes, ma'am.

Q: I'm showing to you also certification inventory of seized properties/items, booking sheet and arrest report, do you recognize these pictures?

A: Yes, ma'am, I signed this document.

PROS. GALLO:

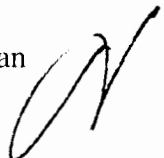
The certification was already marked Exhibit "O", your Honor.

COURT:

Noted.

Q: And, whose signature is this above handwritten name IO1 Reagan Silverio?

A: His **signature**, ma'am.



Q: Above handwritten name IO1 Al Vincent Ma. G. Delgado?

A: My **signature**, ma'am.

Q: There is a **signature above handwritten name KGD Jose Y. Ruiz, Jr., Bgy. Pinyahan, District IV, Quezon City, whose signature is that?**

A: **That is the signature of an elected official of Bgy. Pinyahan, District IV, Quezon City, ma'am, as witness during the inventory of evidence.**

Q: Where were you when Silverio and Ruiz signed in this document?

A: I was **also** present when they signed, ma'am.³¹ (Emphases supplied.)

The Court stressed in *People v. Mendoza*³² that "[w]ithout the insulating presence of the representative from the media or the [DOJ], or any elected public official during the seizure and marking of the [seized drugs], the evils of switching, "planting" or contamination of the evidence that had tainted the buy-busts conducted under the regime of [R.A.] No. 6425 (*Dangerous Drugs Act of 1972*) again reared their ugly heads as to **negate the integrity and credibility of the seizure and confiscation of the [said drugs] that were evidence herein of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.** Indeed, the x x x presence of such witnesses would have preserved an unbroken chain of custody."³³

The Court has enumerated in *People v. Lulu Battung y Narmar*³⁴ the possible circumstances to which absence of the required witnesses may be excused, to wit: (1) **their attendance was impossible because the place of arrest was a remote area;** (2) **their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf;** (3) **the elected officials themselves were involved in the punishable acts sought to be apprehended;** (4) **earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code proved futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention;** or (5) **time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.**³⁵

The procedure in Section 21 of R.A. No. 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse,

³¹ TSN, March 20, 2014, pp. 13-23.

³² 736 Phil. 749 (2014).

³³ *Id.* at 764 (emphases supplied).

³⁴ G.R. No. 230717, June 20, 2018.

³⁵ *Id.*

ignored as an impediment to the conviction of illegal drug suspects.³⁶ While the non-compliance with Section 21 is not fatal to the prosecution's case, provided that the integrity and evidentiary value of the seized items are properly preserved by the apprehending officers, this exception will only be triggered by the existence of a ground that justifies departure from the general rule.³⁷ The saving clause 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.³⁸ As settled in *People v. De Guzman y Danzil*,³⁹ the justifiable ground for non-compliance must be proven as a fact because the Court cannot presume what these grounds are or that they even exist.⁴⁰ Despite the said non-observance, the prosecution, in this case, did not concede such lapses and tender any plausible explanation.

It is not enough for the apprehending officers to merely mark the seized sachets of *shabu*; the buy-bust team must also conduct a physical inventory and take photographs of the confiscated item in the presence of the persons required by law.⁴¹ 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.”⁴² It was held that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and, consequently, make the necessary arrangements beforehand knowing fully well that they would have to strictly comply with the set procedure prescribed in Section 21, Article II of R.A. No. 9165.⁴³ As such, law enforcement officers are compelled not only to state the 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 circumstances, their actions were reasonable.⁴⁴

Here, IO1 Delgado’s affidavit did not even mention that the other witnesses were unavailable, along with an explanation of their absence. It merely stated that in securing the presence of the required witnesses, they managed to get *Barangay Kagawad* Ruiz. Furthermore, there was no evidence that the buy-bust team exerted earnest efforts to comply with the requirements of the law as to the witnesses present during the physical inventory of the seized items. Thus, the failure of the prosecution to even acknowledge before

³⁶ *People v. Umipang*, 686 Phil. 1024, 1038 (2012).

³⁷ *People v. Pringas*, 558 Phil. 579, 594 (2007).

³⁸ *People v. Roberto Andrada y Caampued*, G.R. No. 232299, June 20, 2018.

³⁹ 630 Phil. 637 (2010).

⁴⁰ *Id.* at 649.

⁴¹ *Lescano v. People*, 778 Phil. 460, 476 (2016).

⁴² *People v. Umipang*, *supra* note 36, at 1053.

⁴³ *People v. Marcelino Crispo y Descalso, et al.*, G.R. No. 230065, March 14, 2018.

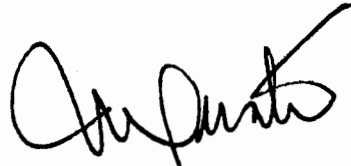
⁴⁴ *People v. Raul Manansala y Maninang*, G.R. No. 229092, February 21, 2018.

the trial court, proffer satisfactory explanation to such deviation, and present evidence to support such allegation is insufficient to justify the absence of two of the required witnesses.

Non-observance of the mandatory requirements under Section 21 of R.A. No. 9165 casts doubt on the integrity of the sachets of *shabu* supposedly seized from, in this case, the accused.⁴⁵ The prosecution's failure to comply with the chain of custody rule is equivalent to its failure to establish the *corpus delicti* and, therefore, its failure to prove that the crime was indeed committed.⁴⁶ For failure of the prosecution to establish beyond reasonable doubt the unbroken chain of custody of the drugs seized from Paz, and to prove as a fact any justifiable reason for non-compliance with Section 21 of R.A. No. 9165 and its Implementing Rules and Regulations, he must be acquitted of the crime charged.

WHEREFORE, the appeal is **GRANTED**. The Decision dated March 21, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08042 is hereby **REVERSED** and **SET ASIDE**. Accused-appellant Mark Andrew Paz y Rocaford is accordingly **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. The Director of the Bureau of Corrections is **ORDERED** to immediately cause the release of accused-appellant from detention, unless he is being held for some other lawful cause, and to **REPORT** to this Court compliance herewith within five (5) days from receipt of this Decision.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice


⁴⁵ *People v. Jaafar*, 803 Phil. 582, 595 (2017).

⁴⁶ *People v. Pagaduan*, 641 Phil. 432, 449-450 (2010).

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
 Associate Justice

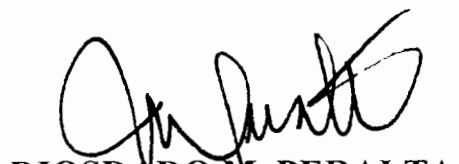

ANDRES B. REYES, JR.
 Associate Justice


RAMON PAUL L. HERNANDO
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice

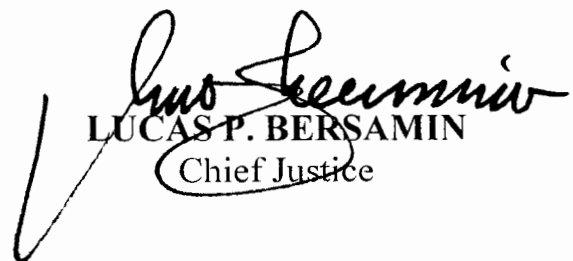
ATTESTATION

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, 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.


LUCAS P. BERSAMIN
 Chief Justice