



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

APR 01 2019

Republic of the Philippines  
 Supreme Court  
 Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 222192  
 Plaintiff-appellee,

Present:

LEONEN, *Acting Chairperson*,  
 CAGUIOA,\*  
 REYES, A., JR.,  
 GESMUNDO,\*\* and  
 CARANDANG, JJ.

-versus-

LAHMODIN AMERIL Y ABDUL  
 @ "AMOR/MHONG",  
 Accused-appellant.

Promulgated:  
 March 13, 2019

*Wilfredo V. Lapitan*

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DECISION

LEONEN, J.:

At the core of every prosecution for the sale of illegal drugs is the constitutional mandate of the State to adduce proof on the identity and integrity of the seized illegal drugs. The wisdom behind this burden is to ensure that the items seized were neither tampered nor contaminated. Failure to overcome such burden calls for the acquittal of the accused.<sup>1</sup>

This resolves an Appeal from the Court of Appeals April 20, 2015 Decision<sup>2</sup> in CA-G.R. CR-HC No. 05502, which convicted Lahmodin Ameril y Abdul @ "Amor/Mhong" of violation of Article II, Section 5 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of

\* Additional member per Raffle dated October 8, 2018.

\*\* Additional member per Raffle dated March 4, 2019.

<sup>1</sup> *Mallillin v. People*, 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

<sup>2</sup> *Rollo*, pp. 2–11. The Decision was penned by Associate Justice Ramon Paul L. Hernando (now a member of this court) and concurred in by Associate Justices Fernanda Lampas Peralta and Stephen C. Cruz of the Seventh Division, Court of Appeals, Manila.

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2002, for the illegal sale of dangerous drugs.

In an Information,<sup>3</sup> dated April 24, 2006 Ameril was charged with violation of Article II, Section 5 of Republic Act No. 9165. The accusatory portion read:

That on or about **April 17, 2006**, in the City of Manila, Philippines, the said accused, not being authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell or offer for sale three (3) transparent plastic sachets with the following markings and net weights, to wit:

1. "LAA" containing four point four one one two (4.4112) grams;
2. "LAA-2" containing four point four three five zero (4.4350) grams; and
3. "LAA" containing three point nine seven two seven (3.9727) grams

of white crystalline substance containing Methylamphetamine hydrochloride, known as "SHABU", which is a dangerous drug[.]

Contrary to law.<sup>4</sup> (Emphasis in the original)

On arraignment, Ameril pleaded not guilty. Trial on the merits then ensued.<sup>5</sup>

The prosecution presented as its witness Special Investigator Rolan Fernandez (Special Investigator Fernandez) of the National Bureau of Investigation.<sup>6</sup>

Special Investigator Fernandez testified that on April 10, 2006, a confidential informant came to the National Bureau of Investigation Reaction Arrest Division.<sup>7</sup> The informant told the Division Chief, Atty. Ruel Lasala, Jr. (Chief Lasala), that one (1) alias "Amor," later identified as Ameril, was selling prohibited drugs in Metro Manila.<sup>8</sup> Chief Lasala then instructed Special Investigator Fernandez to confirm the information.<sup>9</sup>

The informant called Ameril and introduced Special Investigator Fernandez as a prospective buyer.<sup>10</sup> Special Investigator Fernandez proposed to Ameril that he wanted to buy ₱30,000 worth of

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<sup>3</sup> CA Rollo, pp. 12-13.

<sup>4</sup> Id. at 12.

<sup>5</sup> Rollo, p. 3.

<sup>6</sup> CA Rollo, p. 19.

<sup>7</sup> Rollo, p. 3.

<sup>8</sup> Id.

<sup>9</sup> CA Rollo, p. 19.

<sup>10</sup> Rollo, p. 3.

methylamphetamine hydrochloride (shabu), to which the latter agreed.<sup>11</sup>

The informant went to Ameril after the conversation to arrange the sale with Special Investigator Fernandez.<sup>12</sup> Later that day, the informant called Special Investigator Fernandez to tell him that Ameril was ready to deliver the shabu.<sup>13</sup>

In the morning of April 17, 2006, the informant confirmed to Special Investigator Fernandez that Ameril would deliver the shabu at Solanie Hotel, Leon Guinto, Malate, Manila, at around 2:00 p.m. that day.<sup>14</sup> Special Investigator Fernandez then prepared the boodle money consisting of two (2) ₱500 bills placed on top of cut bond papers.<sup>15</sup> Special Investigator Fernandez placed his initials on the bills,<sup>16</sup> but forgot where he actually marked them.<sup>17</sup>

Special Investigator Fernandez also prepared a Pre-Operation Report/Coordination Sheet<sup>18</sup> and sent it to both the Philippine Drug Enforcement Agency and the local police.<sup>19</sup>

As agreed, Special Investigator Fernandez, who was designated as the poseur buyer,<sup>20</sup> would ring the cellphone of Special Investigator Elson Saul (Special Investigator Saul) to signify that the sale had been consummated.<sup>21</sup>

The buy-bust operation team, composed of Special Investigator Fernandez, Special Investigator Saul, and five (5) other officers, went to Solanie Hotel at around 2:30 p.m. Special Investigator Fernandez and the informant sat by one (1) of the umbrella tables in front of the hotel, while the rest positioned themselves along Leon Guinto, Malate, Manila.<sup>22</sup>

Few minutes later, Ameril arrived at the hotel, where the informant introduced him to Special Investigator Fernandez. After a few minutes of conversation, Ameril asked Special Investigator Fernandez if he had the money, to which Special Investigator Fernandez replied that Ameril should first show the shabu. Ameril showed him a black paper bag, inside of which were three (3) small transparent plastic sachets containing white crystalline

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<sup>11</sup> Id. at 3.

<sup>12</sup> Id. at 3-4.

<sup>13</sup> Id. 4.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> CA *Rollo*, p. 41.

<sup>18</sup> RTC Records, p. 6.

<sup>19</sup> *Rollo*, p. 4.

<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> Id.

substance. Convinced that the sachets contained shabu, Special Investigator Fernandez gave the boodle money to Ameril.<sup>23</sup>

As soon as Ameril gave the paper bag to Special Investigator Fernandez, the latter made the pre-arranged signal. Special Investigator Fernandez introduced himself as a National Bureau of Investigation agent, while the other team members rushed to the area. Special Investigator Saul recovered the boodle money from Ameril.<sup>24</sup>

After the arrest, SI Fernandez marked the three (3) plastic sachets with Ameril's initials: (1) "LLA-1"; (2) "LLA-2"; and (3) "LLA-3." The marking was made in the presence of Kagawad Analiza E. Gloria (Kagawad Gloria) and Norman Arcega (Arcega)<sup>25</sup> of media outlet Police Files Tonite.<sup>26</sup> Special Investigator Fernandez also took photos and inventory of the seized items. Both Gloria and Arcega signed the inventory.<sup>27</sup>

Special Investigator Fernandez submitted the seized items to the Forensic Chemistry Division of the National Bureau of Investigation. Police Senior Inspector Felicisima Francisco (PSI Francisco) conducted a qualitative examination on the seized items, which tested positive for shabu.<sup>28</sup>

Ameril denied the allegations against him. He claimed that at around 11:00 a.m. on April 17, 2006, he was in his house preparing to go to an agency in Pedro Gil in Manila to meet his friend, Moy Abdullah (Abdullah).<sup>29</sup> Abdullah told Ameril, who was applying for a job in Jeddah, Saudi Arabia,<sup>30</sup> to bring his old and new passports, NBI clearance, and driver's license to get his visa.<sup>31</sup>

When Ameril arrived at the Pedro Gil Station of the Light Rail Transit, he asked someone how to reach Aljaber Manpower International Agency. The man pointed him to a nearby agency.<sup>32</sup>

The man asked Ameril where he was from, to which he said he was from Maguindanao Street. The man told his companion that Ameril was from Maguindanao Street, and that they could ask him questions. They then told Ameril that they would bring him to their office. Ameril told them that

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<sup>23</sup> Id.

<sup>24</sup> Id. at 4.

<sup>25</sup> Id.

<sup>26</sup> RTC Records, p. 5.

<sup>27</sup> *Rollo*, pp. 4-5.

<sup>28</sup> Id. at 5.

<sup>29</sup> *CA Rollo*, p. 62.

<sup>30</sup> Id. at 64.

<sup>31</sup> *CA Rollo*, p. 21.

<sup>32</sup> Id.

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somebody was waiting for him at the agency, but the two (2) men insisted on bringing him.<sup>33</sup>

At the National Bureau of Investigation office, Ameril saw Special Investigator Fernandez, who showed him photos of persons and asked if he knew them.<sup>34</sup> Ameril replied that he did not, as he had been in the area for just four (4) months.<sup>35</sup> Pedro Gil Station Fernandez warned Ameril that he would be charged with obstruction of justice if he failed to identify the persons in the pictures.<sup>36</sup>

Special Investigator Fernandez then told the persons who brought Ameril to take him into custody and confiscate his belongings.<sup>37</sup>

Ameril was brought the next day to the Manila City Hall for inquest. He only learned on arraignment that he was charged with illegal sale of drugs.<sup>38</sup>

In its January 25, 2012 Decision,<sup>39</sup> the Regional Trial Court convicted Ameril. It ruled that the prosecution had successfully established his guilt<sup>40</sup> by presenting sufficient evidence that showed the elements of illegal sale of dangerous drugs.<sup>41</sup>

The Regional Trial Court noted that although the Information stated that the three (3) plastic sachets seized from Ameril were marked: (1) "LAA" containing 4.4112 grams; (2) "LAA-2" containing 4.4350 grams; and (3) "LAA" containing 3.9727 grams,<sup>42</sup> the evidence presented showed that the plastic sachets seized from Ameril were actually marked LLA-1, LLA-2, and LLA.<sup>43</sup>

Despite this inconsistency, the Regional Trial Court still convicted Ameril for the second plastic sachet containing 4.4350-grams of shabu on the ground that Ameril was informed that he was accused of selling it. The Regional Trial Court ruled that the prosecution proved this accusation.<sup>44</sup>

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<sup>33</sup> Id.

<sup>34</sup> *Rollo*, p. 5.

<sup>35</sup> *CA Rollo*, p. 21.

<sup>36</sup> *Rollo*, p. 5.

<sup>37</sup> Id.

<sup>38</sup> Id.

<sup>39</sup> *CA Rollo*, pp. 17–24. The Decision in Crim. Case No. 06-243457 was penned by Presiding Judge Caroline Rivera-Colasito of Branch 23, Regional Trial Court, Manila.

<sup>40</sup> Id. at 21.

<sup>41</sup> *Rollo* p. 5.

<sup>42</sup> *CA Rollo*, p. 22.

<sup>43</sup> Id.

<sup>44</sup> Id.

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Aggrieved, Ameril appealed<sup>45</sup> before the Court of Appeals. In his Appellant's Brief,<sup>46</sup> Ameril argued that the prosecution failed to prove the *corpus delicti*, as the documents and testimonies revealed flaws in the prosecution's handling of illegal drugs allegedly seized from him.<sup>47</sup> He emphasized that the details of where the seized items' markings took place were not on record.<sup>48</sup>

Ameril further argued that the inconsistencies in the markings of the seized illegal drugs "compromised the integrity of the seized items."<sup>49</sup>

In its April 20, 2015 Decision,<sup>50</sup> the Court of Appeals affirmed Ameril's conviction.<sup>51</sup> It ruled that the chain of custody of the seized illegal drugs was not in any way broken. The raiding team conducted the buy-bust operation in an orderly manner.<sup>52</sup> It emphasized that under the rules on evidence, law enforcers are presumed to have carried out their duties regularly under the law.<sup>53</sup>

Even if there was a variance in the marking of the seized illegal drugs, the Court of Appeals ruled that Ameril was still substantially apprised of the crime charged against him.<sup>54</sup>

Undaunted, Ameril, through counsel, filed a Notice of Appeal before the Court of Appeals.<sup>55</sup>

In its May 29, 2015 Resolution,<sup>56</sup> the Court of Appeals gave due course to Ameril's Notice of Appeal.

On March 2, 2016, this Court notified accused-appellant Lahmodin A. Ameril and the People of the Philippines, through the Office of the Solicitor General, to file their respective supplemental briefs.<sup>57</sup>

Both the accused-appellant<sup>58</sup> and the Office of the Solicitor General<sup>59</sup> manifested that they would no longer file supplemental briefs.

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<sup>45</sup> Id. at 25.

<sup>46</sup> Id. at 53–76.

<sup>47</sup> Id. at 64.

<sup>48</sup> Id. at 66.

<sup>49</sup> Id. at 67.

<sup>50</sup> *Rollo*, pp. 2–11.

<sup>51</sup> Id. at 10.

<sup>52</sup> Id. at 7.

<sup>53</sup> Id. at 9.

<sup>54</sup> Id. at 10.

<sup>55</sup> Id. at 12–14.

<sup>56</sup> *CA Rollo*, p. 155.

<sup>57</sup> *Rollo*, pp. 17–18.

<sup>58</sup> Id. at 24–28.

<sup>59</sup> Id. at 21–23.

The sole issue for this Court's resolution is whether or not the Court of Appeals correctly upheld the conviction of accused-appellant for violation of Article II, Section 5 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

This Court rules in the negative.

## I

In sustaining a conviction for illegal sale of dangerous drugs, "the following elements must first be established: (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."<sup>60</sup>

The illegal drug itself constitutes the *corpus delicti* of the offense. Its existence must be proved beyond reasonable doubt. "Proof beyond reasonable doubt demands that unwavering exactitude be observed in establishing the *corpus delicti*. The chain of custody rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed."<sup>61</sup>

Section 21 of Republic Act No. 9165, as amended by Republic Act No. 10640, outlines the procedure that police officers must follow in handling seized illegal drugs:

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 be required to sign the copies of the inventory and be given a copy thereof:

<sup>60</sup> *People v. Morales y Midarasa*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division].

<sup>61</sup> *Fajardo v. People*, 691 Phil. 752, 758–759 (2012) [Per J. Perez, Second Division].

*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. (Emphasis in the original)

In *Mallillin v. People*,<sup>62</sup> this Court emphasized the importance of the chain of custody:

Indeed, the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives. *Graham vs. State* positively acknowledged this danger. In that case where a substance later analyzed as heroin — was handled by two police officers prior to examination who however did not testify in court on the condition and whereabouts of the exhibit at the time it was in their possession — was excluded from the prosecution evidence, the court pointing out that the white powder seized could have been indeed heroin or it could have been sugar or baking powder. It ruled that unless the state can show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into the possession of police officers until it was tested in the laboratory to determine its composition, testimony of the state as to the laboratory's findings is inadmissible.

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.<sup>63</sup> (Emphasis supplied, citations omitted)

Failing to comply with Article II, Section 21, Paragraph 1 of Republic Act No. 9165 implies “a concomitant failure on the part of the prosecution to establish the identity of the *corpus delicti*[,]”<sup>64</sup> and “produces doubts as to the origins of the [seized illegal drugs].”<sup>65</sup>

<sup>62</sup> *Mallillin v. People*, 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

<sup>63</sup> *Id.* at 588–589.

<sup>64</sup> *People v. Morales y Midarasa*, 630 Phil. 215, 229 (2010) [Per J. Del Castillo, Second Division].

<sup>65</sup> *People v. Laxa*, 414 Phil. 156, 170 (2001) [Per J. Mendoza, Second Division].

## II

The Information filed against accused-appellant provided that he was caught selling three (3) transparent plastic sachets containing white crystalline substance known as shabu, marked “LAA,” “LAA-2,” and “LAA.”<sup>66</sup>

However, the evidence presented during trial showed that accused-appellant sold three (3) plastic sachets with the markings “LLA-1,” “LLA-2,” and “LLA.”<sup>67</sup>

Nonetheless, the Regional Trial Court brushed aside this discrepancy and still convicted the accused-appellant. It ruled:

The chain of custody over the evidence was similarly established. The court is convinced of the integrity and proper preservation of the evidence. SI Fernandez testified that immediately after the arrest of the accused, he marked the evidence as LLA-1, LL-2 and LLA-3 and brought them to their office. Soon after, he delivered the three sachets to their crime laboratory for chemical analysis where it was found positive for illegal drugs. The team likewise substantially complied with the provisions of Section 21 as the evidence seized was properly marked, photographed, and inventoried in the presence of witnesses from the barangay and the media.

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WHEREFORE, premises considered, the court finds the accused LAHMODIN AMERIL y ABDUL a. k. a. “Amor/Mhong”, GUILTY, beyond reasonable doubt of the offense of Violation of Section 5, Article II of R.A. 9165, and is hereby sentenced to suffer the penalty of life imprisonment AND to pay a fine of Five Hundred Thousand Pesos (P500,000.00).<sup>68</sup>

Contrary to the Regional Trial Court’s findings, the integrity of the seized illegal drugs was not preserved.

Again, it must be emphasized that the seized illegal drugs constitute the *corpus delicti* of the illegal sale of dangerous drugs. Its identity must be proved beyond reasonable doubt.<sup>69</sup> When there is doubt on its identity, conviction cannot be sustained.<sup>70</sup>

<sup>66</sup> CA *Rollo*, p. 12.

<sup>67</sup> *Id.* at 22.

<sup>68</sup> *Id.* at 23–24.

<sup>69</sup> *Fajardo v. People*, 691 Phil. 752 (2012) [Per J. Perez, Second Division].

<sup>70</sup> *People v. Lorenzo*, 633 Phil. 393 (2010) [Per J. Perez, Second Division].

In *People v. Garcia*,<sup>71</sup> this Court acquitted the accused. It held that the discrepancy in the markings of the seized items raised doubts if the items presented in court were the same ones taken from the accused upon arrest:

PO1 Garcia testified that he had marked the seized item (on the wrapper) with the initial “**RP-1**”. However, an examination of the two documents showed a different marking: on one hand, what was submitted to the PNP Crime Laboratory consisted of a single piece telephone directory paper containing suspected dried marijuana leaves fruiting tops with the marking “**RGR-1**” and thirteen pieces of rolling paper with the markings “**RGR-RP1**” to “**RGR-RP13**”; on the other hand, the PNP Crime Laboratory examined the following items with the corresponding markings: a printed paper with the marking “**RGR-1**” together with one small brick of dried suspected marijuana fruiting tops and thirteen pieces of small white paper with the markings “**RGP-RP1**” to “**RGP-RP13**”.

PO1 Garcia’s testimony is the only testimonial evidence on record relating to the handling and marking of the seized items since the testimony of the forensic chemist in the case had been dispensed with by agreement between the prosecution and the defense. Unfortunately, PO1 Garcia was not asked to explain the discrepancy in the markings. Neither can the stipulated testimony of the forensic chemist now shed light on this point, as the records available to us do not disclose the exact details of the parties’ stipulations.

To our mind, the procedural lapses in the handling and identification of the seized items, as well as the unexplained discrepancy in their markings, collectively raise doubts on whether the items presented in court were the exact same items that were taken from Ruiz when he was arrested. These constitute major lapses that, standing unexplained, are fatal to the prosecution’s case.<sup>72</sup> (Emphasis in the original, citations omitted)

Here, like in *Garcia*, there is a discrepancy in the markings of the illegal drugs seized from accused-appellant. This raises doubts if the items presented in court were the exact ones taken from accused-appellant.<sup>73</sup>

During examination, Special Investigator Fernandez testified that he marked the seized illegal drugs with the initials LLA-1 and LLA-3:

Q For your information the Forensic Chemist inc (*sic*) charge of this case previously submitted to this Court the sachet you bought from this Alyas Amor, without first showing this to you please state for the record, how will you be able to recognize this?

<sup>71</sup> *People v. Garcia*, 599 Phil. 416 (2009) [Per J. Brion, Second Division].

<sup>72</sup> *Id.* at 431–432.

<sup>73</sup> *Id.* at 432.

A I think I have my signatures on the plastic sachet and placed the initials *LLA-1 and LLA-3*.<sup>74</sup> (Emphasis supplied)

However, on cross-examination, Special Investigator Fernandez stated that he marked the seized illegal drugs with initials LAA-1, LAA-2, and LAA-3:

Q – So since you marked it on the target area, were you able to ask the person there from the barangay to witness the marking Mr. Witness?

A – Yes, sir.

Q – And who was that?

A – It was the Kagawad of the barangay, sir, and also the media from the Police File Tonight, (*sic*) sir.

Q – You mean to say Mr. Witness, you have a form of the Inventory of the Seized Items with you at that time?

A – Yes, sir.

Q – So since you followed the Inventory you were able to photograph it?

A – Of course, because that is the procedure, sir.

Q – But Mr. Witness, there is nothing on file of the photographed (*sic*) of the seized items, but at any rate, you said you marked it Mr. Witness?

A – *I placed LAA-1, LAA-2 and LAA-3, sir.*<sup>75</sup> (Emphasis supplied)

That the integrity of the *corpus delicti* had been compromised was further magnified by the gap in the chain of custody. Special Investigator Fernandez merely testified that he submitted the seized illegal drugs to the Forensic Chemistry Division for examination and safekeeping. He did not identify the person to whom he gave the seized illegal drugs upon delivery.<sup>76</sup>

While the prosecution stipulated that PSI Francisco received three (3) plastic sachets with markings “LAA-1,” “LAA-2,” and “LAA-3,”<sup>77</sup> the evidence presented showed that accused-appellant sold three (3) plastic sachets with the markings “LLA-1,” “LLA-2,” and “LLA.”<sup>78</sup> Moreover, Special Investigator Fernandez testified that he used the markings “LAA-1,” “LAA-2,” and “LAA-3.”

<sup>74</sup> TSN dated December 14, 2006, p. 20.

<sup>75</sup> TSN dated April 7, 2010, p. 7.

<sup>76</sup> TSN dated December 14, 2006, p. 28.

<sup>77</sup> RTC Records, p. 36.

<sup>78</sup> CA Rollo, p. 22.

Thus, the seized illegal drugs were referred to using three (3) sets of markings. The Regional Trial Court, having evaluated the evidence presented firsthand, should have been more cautious in convicting accused-appellant despite the obvious discrepancy in the markings of the seized drugs and procedural lapses committed by the arresting officers in handling the same. The glaring inconsistency in the markings of the seized illegal drugs should have warned the trial court and the Court of Appeals that something was amiss.

### III

This Court has stressed that the presumption of regularity in the performance of official duty, which the Court of Appeals relied on in its Decision,<sup>79</sup> “stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty. And even in that instance the presumption of regularity will not be stronger than the presumption of innocence in favor of the accused.”<sup>80</sup>

In *People v. Segundo*:<sup>81</sup>

Moreover, the presumption of regularity in the performance of their duties cannot work in favor of the law enforcers since the records revealed severe lapses in complying with the requirements provided for under the law. “The presumption stands when no reason exists in the records by which to doubt the regularity of the performance of official duty.” Thus, this presumption “will never be stronger than the presumption of innocence in favor of the accused. Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right of an accused to be presumed innocent.”<sup>82</sup> (Citations omitted)

Moreover, in *People v. Mirantes*:<sup>83</sup>

The oft-cited presumption of regularity in the performance of official functions cannot by itself affect the constitutional presumption of innocence enjoyed by an accused, particularly when the prosecution's evidence is weak. The evidence of the prosecution must be strong enough to pierce the shield of this presumptive innocence and to establish the guilt of the accused beyond reasonable doubt. And where the evidence of the prosecution is insufficient to overcome this presumption, necessarily, the judgment of conviction of the court a quo must be set aside. The *onus probandi* on the prosecution is not discharged by casting doubts upon the

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<sup>79</sup> *Rollo*, p. 9.

<sup>80</sup> *People v. Mendoza y Estrada*, 736 Phil. 749, 770 (2014) [Per J. Bersamin, First Division].

<sup>81</sup> *People v. Segundo y Iglesias*, G.R. No. 205614, July 26, 2017, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/july2017/205614.pdf> [Per J. Bersamin, Second Division].

<sup>82</sup> *Id.* at 21.

<sup>83</sup> *People v. Mirantes*, 284-A Phil. 630 (1992) [Per J. Regalado, Second Division].

innocence of an accused, but by eliminating all reasonable doubts as to his guilt.<sup>84</sup> (Citations omitted)

The totality of the evidence presented shows that the arresting officers who conducted the buy-bust operation were remiss in the performance of their official functions. They made discrepancies in the markings of the seized illegal drugs, and failed to comply with the chain of custody. Consequently, the presumption of regularity in favor of arresting officers is negated.

This Court ends with the words in *People v. Holgado, et al.*:<sup>85</sup>

It is lamentable that while our dockets are clogged with prosecutions under Republic Act No. 9165 involving small-time drug users and retailers, we are seriously short of prosecutions involving the proverbial “big fish.” We are swamped with cases involving small fry who have been arrested for miniscule amounts. While they are certainly a bane to our society, small retailers are but low-lying fruits in an exceedingly vast network of drug cartels. Both law enforcers and prosecutors should realize that the more effective and efficient strategy is to focus resources more on the source and true leadership of these nefarious organizations. Otherwise, all these executive and judicial resources expended to attempt to convict an accused for 0.05 gram of *shabu* under doubtful custodial arrangements will hardly make a dent in the overall picture. It might in fact be distracting our law enforcers from their more challenging task: to uproot the causes of this drug menace. We stand ready to assess cases involving greater amounts of drugs and the leadership of these cartels.<sup>86</sup>

**WHEREFORE**, the Court of Appeals April 20, 2015 Decision in CA-G.R. CR-HC No. 05502 is **REVERSED** and **SET ASIDE**. accused-appellant Lahmodin Ameril y Abdul @ “Amor/Mhong” is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for some other lawful cause.

Let a copy of this Decision be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report the action he has taken to this Court within five (5) days from receipt of this Decision. For their information, copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drugs Enforcement Agency.

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<sup>84</sup> Id. at 642.

<sup>85</sup> 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

<sup>86</sup> Id. at 100.

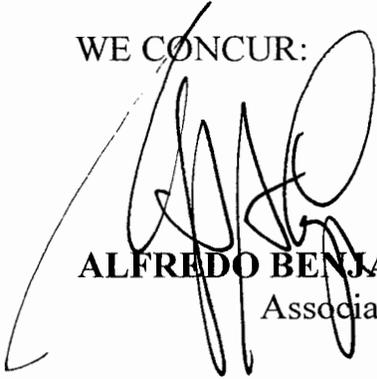
Let entry of final judgment be issued immediately.

**SO ORDERED.**



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

WE CONCUR:



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**ANDRES B. REYES, JR.**  
Associate Justice



**ALEXANDER G. GESMUNDO**  
Associate Justice



**ROSMARI D. 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.



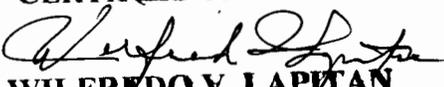
**MARVIC M.V.F. LEONEN**  
Associate Justice  
Acting Chairperson, Third Division

**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

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

APR 01 2019