



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

MARLON DOMINGUEZ Y ARGANA,

Petitioner,

G.R. No. 235898

Present:

- versus -

CARPIO, *J.*, Chairperson,
 PERLAS-BERNABE,
 CAGUIOA,
 J. REYES, JR., and
 LAZARO-JAVIER, *JJ.*

PEOPLE OF THE PHILIPPINES,

Respondent.

Promulgated:

13 MAR 2019

x-----x

[Signature]

DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on Certiorari¹ under Rule 45 of the 1997 Rules of Civil Procedure filed by Marlon Dominguez y Argana (Dominguez) assailing the Decision² dated May 9, 2017 of the Court of Appeals (CA) in CA-G.R. CR No. 38665, which affirmed the Decision³ dated March 22, 2016 of the Regional Trial Court of Muntinlupa City, Branch 203 (RTC) in Criminal Case No. 10-533, finding Dominguez guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. (RA) 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002,”⁴ as amended.

¹ *Rollo*, pp. 11-32.

² *Id.* at 36-49. Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Ricardo R. Rosario and Maria Filomena D. Singh concurring.

³ *Id.* at 112-128. Penned by Presiding Judge Myra B. Quiambao.

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

[Signature]

The Facts

Dominguez was charged with violation of Section 11, Article II of RA 9165. The accusatory portion of the Information reads as follows:

That on or about the 17th day of August 2010, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously, have in his possession, custody and control Metamphetamine Hydrochloride, a dangerous drug weighing 0.03 [gram] contained in a transparent plastic sachet, in violation of the above-cited law.

CONTRARY TO LAW.⁵

Upon arraignment, Dominguez pleaded not guilty to the crime charged. Thereafter, trial ensued.

Version of the Prosecution

At around 2:00 in the morning of August 17, 2010, SPO1 Gerardo Parchaso (SPO1 Parchaso) was conducting monitoring and possible arrest of violators of RA 9165 at Purok 3, Brgy. Poblacion, Muntinlupa City.⁶ From a meter away, he saw a man wearing a red shirt and white shorts, holding with his left hand a small transparent plastic sachet containing white crystalline substance suspected to be *shabu*. This man was later identified as Dominguez.⁷

SPO1 Parchaso grabbed the hands of Dominguez and seized therefrom one heat-sealed transparent plastic sachet containing the substance suspected to be *shabu*.⁸ Assisted by PO2 Salvador Genova (PO2 Genova), SPO1 Parchaso introduced himself as a police officer, arrested Dominguez, and informed him of his violation and his rights under the law.⁹ However, seeing that there was already a crowd gathering in the area, SPO1 Parchaso and PO2 Genova decided to leave the scene, and brought Dominguez and the seized item to their office.¹⁰

At the police station, SPO1 Parchaso marked the seized item with "MD," the initials of Dominguez.¹¹ With the help of Police Inspector Domingo J. Diaz (P/Insp. Diaz), and another police officer, PO2 Mark Sherwin Forastero (PO2 Forastero), they prepared Dominguez's Booking and Information Sheet, and took photographs of Dominguez and the marked seized item.¹² They also conducted the inventory which was witnessed by Orlando Rodriguez, a local government employee of Muntinlupa City.¹³ SPO1 Parchaso explained that despite P/Insp. Diaz's calls to the

⁵ *Rollo*, pp. 37.

⁶ *Id.* at 38.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 39.

¹² *Id.*

¹³ *Id.*

representatives of the Department of Justice (DOJ) and the media to witness the inventory, no one came.¹⁴ Nevertheless, they still proceeded with the inventory to comply with the period within which to bring the evidence to the Philippine National Police – Southern Police District (PNP-SPD) Crime Laboratory for examination.¹⁵

The marked seized item was brought to the PNP-SPD Crime Laboratory for examination. SPO1 Parchaso was the one who prepared the request for laboratory examination, but it was PO2 Genova who delivered the marked seized item. Upon inquiry, SPO1 Parchaso explained that it was only PO2 Genova who had an identification card at the time of delivery.¹⁶ Nonetheless, the request was received by PNP Non-Uniformed Personnel Bernardo Bucayan, Jr. (NUP Bucayan, Jr.), which he turned over to Police Chief Inspector Abraham Verde Tecson (PCI Tecson).¹⁷ Based on Physical Science Report No. D-294-10S, prepared by PCI Tecson, the specimen weighing 0.03 gram, yielded a positive result for *shabu*.¹⁸

Version of the Defense

Dominguez vehemently denied the accusations against him. He testified that at 11:00 in the evening of August 16, 2010, while he was at home watching television and eating inside his house at Argana St., Brgy. Poblacion, Muntinlupa City, two men in civilian clothes entered therein and arrested him.¹⁹ They immediately grabbed him by his shorts and nape and told him not to resist.²⁰

The two men introduced themselves as police officers.²¹ When Dominguez asked the men, “*Ano pong kasalanan ko sa inyo?*”²² The men replied, “*Sumama ka na sa amin para hindi ka masaktan.*”²³ Immediately thereafter, the men brought Dominguez and boarded him on a white Toyota Revo, where he was told, “*Aregluhin mo na lang ito,*” to which he replied, “*Sir, ano hong aaregluhing sinasabi niyo?*”²⁴

The man, later identified as Police Officer Bob Yangson (PO Yangson), showed Dominguez a plastic sachet containing a white crystalline substance, and insisted that the same was recovered from him.²⁵ The other man was later identified as PO2 Forastero. At the police station, PO Yangson and PO2 Forastero took a photograph of Dominguez while they reiterated that

¹⁴ Id.
¹⁵ Id.
¹⁶ Id.
¹⁷ Id.
¹⁸ Id.
¹⁹ Id. at 40.
²⁰ Id.
²¹ Id.
²² Id.
²³ Id.
²⁴ Id.
²⁵ Id.



Dominguez should settle the matter to avoid criminal charges.²⁶ However, Dominguez did not enter into any settlement with them because he denied having possessed said sachet and also, due to lack of money.²⁷

The wife of Dominguez, Rowelyn, also testified that on August 17, 2010, at around 11:00 in the evening, two men who introduced themselves as police officers barged inside their house.²⁸ She saw PO2 Forastero slap and punch Dominguez while the other police officer held him.²⁹ When they brought Dominguez at the police station, Rowelyn followed them. She claimed that PO2 Forastero told her: “*Misis halika, may P50,000 ka ba?*” to which she replied: “*Sir, wala po akong P50,000.00, ako’y isang mananahi lang po ngayon, hindi po ako makakabigay sa inyo ng P50,000.00.*”³⁰ Thereafter, PO2 Forastero said that they will detain and charge Dominguez with violation of Section 5 or Section 11 of RA 9165.³¹

Ruling of the RTC

After trial on the merits, in its Decision³² dated March 22, 2016, the RTC convicted Dominguez of the crime charged. The RTC held that the prosecution sufficiently established all the elements for illegal possession of dangerous drugs, and that the integrity of the *shabu* seized from Dominguez had been duly preserved. It further held that chain of custody has not been broken. The dispositive portion of the said Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Marlon Dominguez y Argana @ “OXO” guilty beyond reasonable doubt of violation of Section 11, Article II of R.A. No. 9165. Accordingly, the accused is hereby sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum to fourteen (14) years as maximum to pay a fine in the amount of Three Hundred Thousand Pesos (P300,000.00).

x x x x

SO ORDERED.³³

Aggrieved, Dominguez appealed to the CA.

Ruling of the CA

In the questioned Decision³⁴ dated May 9, 2017, the CA affirmed the RTC’s conviction of Dominguez, holding that the prosecution was able to prove the elements of the crime charged. The CA explained:

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Id.

³¹ Id.

³² Supra note 3.

³³ *Rollo*, p. 127.

³⁴ Supra note 2.

A close look at the sequence of events narrated by the prosecution witnesses particularly by SPO1 Parchaso shows that during the police officers' monitoring, accused-appellant was caught with a sachet of *shabu* in plain view and *in flagrante delicto*.[.] It bears stressing that accused-appellant was particularly identified by SPO1 Parchaso as the person in possession of the seized sachet marked as "MD." Subsequently, through chemical analysis, the contents of the same sachet were found to be *shabu*. Accused-appellant was positively found to be in possession of prohibited drugs without proof that he was duly authorized by law to possess them. Having been caught *in flagrante delicto*, there is, therefore, a *prima facie* evidence of *animus possidendi* on the part of accused-appellant – a burden of evidence, which accused-appellant miserably failed to discharge in this case.³⁵

The CA also held that there was no showing that the integrity and evidentiary value of the seized item was compromised. It stated that the chain of custody can be easily established. It further stressed that defenses of denial and frame-up cannot prevail over the positive and categorical assertions of the police officers, particularly SPO1 Parchaso, who was a stranger to Dominguez and against whom no ill motive was established.

For these reasons, the CA disposed as follows:

WHEREFORE, the appeal is **DISMISSED**. The March 22, 2016 Decision of the Regional Trial Court of Muntinlupa City, Branch 203 in *Criminal Case No. 10-533*, convicting accused-appellant Marlon Dominguez y Argana @ "OXO" for illegal possession of dangerous drugs, is **AFFIRMED in toto**.

SO ORDERED.³⁶

Hence, the instant appeal.

Issue

For resolution of the Court is the issue of whether the RTC and the CA erred in convicting Dominguez of the crime charged.

The Court's Ruling

The appeal is meritorious. The Court acquits Dominguez for failure of the prosecution to prove his guilt beyond reasonable doubt.

Dominguez focuses his appeal on the validity of his arrest and the search and seizure of the sachet of *shabu* and, consequently, the admissibility of the sachet. Notably, the CA already highlighted the fact that Dominguez raised no objection to the irregularity of his arrest before arraignment.³⁷ Thus, considering such and his active participation in the trial of the case, the CA

³⁵ *Rollo*, pp. 44-45.

³⁶ *Id.* at 48.

³⁷ *Id.* at 43.

ruled that he is deemed to have submitted to the jurisdiction of the RTC, thereby curing any defect in his arrest.³⁸

Well settled is the rule that an accused is estopped from assailing the legality of his arrest if he failed to move to quash the information against him before his arraignment.³⁹ Any objection involving the arrest or the procedure in the acquisition by the court of jurisdiction over the person of an accused must be made before he enters his plea, otherwise, the objection is deemed waived.⁴⁰ Even in the instances not allowed by law, a warrantless arrest is not a jurisdictional defect, and objection thereto is waived where the person arrested submits to arraignment without objection.⁴¹

Applying the foregoing, the Court agrees that Dominguez had already waived his objection to the validity of his arrest. However, it must be stressed that such waiver only affects the jurisdiction of the court over the person of the accused but does not carry a waiver of the admissibility of evidence, as the Court ruled in *Homar v. People*:⁴²

We agree with the respondent that the petitioner did not timely object to the irregularity of his arrest before his arraignment as required by the Rules. In addition, he actively participated in the trial of the case. As a result, the petitioner is deemed to have submitted to the jurisdiction of the trial court, thereby curing any defect in his arrest.

However, this waiver to question an illegal arrest only affects the jurisdiction of the court over his person. It is well-settled that a waiver of an illegal, warrantless arrest does not carry with it a waiver of the inadmissibility of evidence seized during an illegal warrantless arrest.⁴³ (Emphasis ours)

Thus, it is now necessary for the Court to ascertain whether the warrantless search which yielded the alleged contraband was lawful.

Enshrined in the Constitution is the inviolable right of the people to be secure in their persons and properties against unreasonable searches and seizures, as defined under Section 2, Article III thereof, which reads:

Sec. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

³⁸ Id.

³⁹ *People v. Bringcula*, G.R. No. 226400, January 24, 2018, pp. 7-8, citing *People v. Bongalon*, 425 Phil. 96 (2002).

⁴⁰ Id. at 8.

⁴¹ Id.

⁴² 768 Phil. 195 (2015).

⁴³ Id. at 209.



To protect the people from unreasonable searches and seizures, Section 3 (2), Article III of the 1987 Constitution provides that evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree. **In other words, evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding.**⁴⁴

Nevertheless, the constitutional proscription against warrantless searches and seizures is not absolute but admits of certain exceptions, namely: (1) warrantless search incidental to a lawful arrest recognized under Section 12, Rule 126 of the Rules of Court and by prevailing jurisprudence;⁴⁵ (2) seizure of evidence in plain view;⁴⁶ (3) search of moving vehicles;⁴⁷ (4) consented warrantless search;⁴⁸ (5) customs search; (6) stop and frisk situations (Terry search);⁴⁹ and (7) exigent and emergency circumstances.⁵⁰

The CA and the RTC concluded that Dominguez was caught *in flagrante delicto*, declaring that he was caught in the act of actually committing a crime or attempting to commit a crime in the presence of the apprehending officers, when he was caught holding a sachet of *shabu*. Consequently, the warrantless search was considered valid as it was deemed an incident to the lawful arrest.

For an arrest of a suspect *in flagrante delicto*, two elements must concur, namely: (a) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (b) such overt act is done in the presence or within the view of the arresting officer.⁵¹ The officer's personal knowledge of the fact of the commission of an offense is absolutely required.⁵² The officer himself must witness the crime.⁵³

The prosecution and the defense presented different versions of the events. However, even if the Court were to believe the version of the

⁴⁴ *People v. Manago*, 793 Phil. 505, 514-515 (2016) citing *Comerciante v. People*, 764 Phil. 627, 633-634 (2015).

⁴⁵ *Caballes v. CA*, 424 Phil. 263, 277 (2002) citing *People v. Figueroa*, 319 Phil. 21, 25 (1995); *Morfe v. Mutuc, et al.*, 130 Phil. 415 (1968); *Davis v. United States*, 328 U.S. 582 (1946).

⁴⁶ *Id.*, citing *Obra, et al. v. CA, et al.*, 375 Phil. 1052 (1999); *People v. Bagista*, 288 Phil. 828, 836 (1992); *Padilla v. CA, et al.*, 336 Phil. 383, 401 (1997); *People v. Lo Ho Wing, et al.*, 271 Phil. 120, 128 (1991); *Coolidge v. New Hampshire*, 403 U.S. 443 (1971).

⁴⁷ *Id.*, citing *People v. Escaño, et al.*, 380 Phil. 719 (2000); *Aniag, Jr. v. Comelec*, 307 Phil. 437, 448 (1994); *People v. Saycon*, 306 Phil. 359, 366 (1994); *People vs. Exala*, 293 Phil. 538 (1993); *Valmonte v. de Villa*, 258 Phil. 838 (1989); *Carroll v. United States*, 267 U.S. 132 (1925).

⁴⁸ *Id.*, citing *People v. Montilla*, 349 Phil. 640, 656 (1998); *People v. Cuizon*, 326 Phil. 345 (1996); *Mustang Lumber v. CA, et al.*, 327 Phil. 214 (1996); *People v. Ramos*, 294 Phil. 553, 574 (1993); *People v. Omaweng*, 288 Phil. 350, 359-360 (1992).

⁴⁹ *Id.*, citing *People v. Solayao*, 330 Phil. 811, 818 (1996); *Posadas v. CA*, 266 Phil. 306, 312 (1990) further citing *Terry v. Ohio*, 392 U.S. 1 (1968).

⁵⁰ *Id.*, citing *People v. de Gracia*, 304 Phil. 118, 133 (1994) further citing *People v. Malmstedt*, 275 Phil. 447 (1991) and *Umil, et al. v. Ramos, et al.*, 265 Phil. 325, 336-337 (1990).

⁵¹ *Comerciante v. People*, supra note 44 at 635.

⁵² *Id.*

⁵³ *Id.*

prosecution, the instant case reveals that there could have been no lawful warrantless arrest made on Dominguez. SPO1 Parchaso's testimony on direct examination discloses as follows:

[Fiscal Rodriguez:]

Q Where in particular did your group go?

A We proceeded immediately to the place where there was report, sir at Purok Tres, Barangay Poblacion, Muntinlupa City.

Q At approximately what time did you reach that Purok Tres at Barangay Poblacion?

A 2:00 in the morning, sir.

Q Upon reaching that place, what happened?

A We separated at the area where we conducted monitoring and observation, and I entered this one small alley, sir.

Q What is the name of this alley, if you know?

A It is near Argana Street, sir, Barangay Poblacion, Muntinlupa City.

Q While in the alley, what happened?

A When I was entering or approaching the said alley, I saw a man standing at the said alley, sir.

Q And what was this man doing?

A He is not far from me, about one (1) meter, sir, and I saw him holding maliit na plastic sachet.

Q Can you describe to this Honorable Court the alley where you found this person?

A It is a small alley, sir.

Q Is this alley lighted?

A Opo.

Q What was this man doing with the plastic sachet?

A When I saw him, sir, he was wearing a red t-shirt and white short. And he was holding the transparent plastic sachet on his left hand.

Q Upon seeing this, what did you do?

A I immediately grabbed him, held him and arrested him on the same time, sir.⁵⁴ (Emphasis added)

In *People v. Racho*,⁵⁵ the Court ruled that **the determination of validity of the warrantless arrest would also determine the validity of the warrantless search that was incident to the arrest.** A determination of whether there existed probable cause to effect an arrest should therefore be determined first, thus:

⁵⁴ TSN, dated February 12, 2013, pp. 5-6.

⁵⁵ 640 Phil. 669 (2010).

Recent jurisprudence holds that in searches incident to a lawful arrest, the arrest must precede the search; generally, the process cannot be reversed. Nevertheless, a search substantially contemporaneous with an arrest can precede the arrest if the police have probable cause to make the arrest at the outset of the search. Thus, given the factual milieu of the case, we have to determine whether the police officers had probable cause to arrest appellant. **Although probable cause eludes exact and concrete definition, it ordinarily signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged.**⁵⁶ (Emphasis ours)

The circumstances as stated above do not give rise to a reasonable suspicion that Dominguez was in possession of *shabu*. From a meter away, even with perfect vision, SPO1 Parchaso would not have been able to identify with reasonable accuracy the contents of the plastic sachet. **Dominguez' acts of standing on the street and holding a plastic sachet in his hands, are not by themselves sufficient to incite suspicion of criminal activity or to create probable cause enough to justify a warrantless arrest.** In fact, SPO1 Parchaso's testimony reveals that before the arrest was made, he only saw that Dominguez was holding a small plastic sachet. He was unable to describe what said plastic sachet contained, if any. He only mentioned that the plastic contained "*pinaghihinalang shabu*" after he had already arrested Dominguez and subsequently confiscated said plastic sachet:

[Fiscal Rodriguez:]

Q What happened after you arrested him?

A I was able x x x [to recover] from him, in his possession a transparent plastic sachet with pinaghihinalang shabu, sir.⁵⁷

The present case is similar to *People v. Villareal*,⁵⁸ where the Court held that the warrantless arrest of the accused was unconstitutional, as simply holding something in one's hands cannot in any way be considered as a criminal act:

On the basis of the foregoing testimony, the Court finds it inconceivable how PO3 de Leon, even with his presumably perfect vision, would be able to identify with reasonable accuracy, from a distance of about 8 to 10 meters and while *simultaneously driving a motorcycle*, a negligible and minuscule amount of powdery substance (0.03 gram) inside the plastic sachet allegedly held by appellant. That he had previously effected numerous arrests, all involving *shabu*, is insufficient to create a conclusion that what he *purportedly* saw in appellant's hands was indeed *shabu*.

Absent any other circumstance upon which to anchor a lawful arrest, no other overt act could be properly attributed to appellant as to rouse suspicion in the mind of PO3 de Leon that he (appellant) had just committed, was committing, or was about to commit a crime, for the acts *per se* of walking along the street and examining something in one's hands cannot in any way be considered criminal acts. In fact, even if

⁵⁶ Id. at 676- 677.

⁵⁷ TSN, dated February 12, 2013, p. 6.

⁵⁸ 706 Phil. 511 (2013).

appellant had been exhibiting unusual or strange acts, or at the very least appeared suspicious, the same would not have been sufficient in order for PO3 de Leon to effect a *lawful* warrantless arrest under paragraph (a) of Section 5, Rule 113.

Neither has it been established that the rigorous conditions set forth in paragraph (b) of Section 5, Rule 113 have been complied with, *i.e.*, that an offense had in fact just been committed and the arresting officer had *personal knowledge* of facts indicating that the appellant had committed it. The factual circumstances of the case failed to show that PO3 de Leon had personal knowledge that a crime had been *indisputably* committed by the appellant. It is not enough that PO3 de Leon had reasonable ground to believe that appellant had just committed a crime; a crime must in fact have been committed first, which does not obtain in this case.⁵⁹ (Emphasis and underscoring ours)

The Court reached the same conclusion in the case of *Comerciante v. People*.⁶⁰

On the basis of such testimony, the Court finds it highly implausible that PO3 Calag, even assuming that he has perfect vision, would be able to identify with reasonable accuracy — especially from a distance of around 10 meters, and while aboard a motorcycle cruising at a speed of 30 kilometers per hour — miniscule amounts of white crystalline substance inside two (2) very small plastic sachets held by Comerciante. The Court also notes that no other overt act could be properly attributed to Comerciante as to rouse suspicion in the mind of PO3 Calag that the former had just committed, was committing, or was about to commit a crime. Verily, the acts of standing around with a companion and handing over something to the latter cannot in any way be considered criminal acts. In fact, even if Comerciante and his companion were showing "improper and unpleasant movements" as put by PO3 Calag, the same would not have been sufficient in order to effect a lawful warrantless arrest under Section 5 (a), Rule 113 of the Revised Rules on Criminal Procedure. That his reasonable suspicion bolstered by (a) the fact that he had seen his fellow officers arrest persons in possession of *shabu*; and (b) his trainings and seminars on illegal drugs when he was still assigned in the province are insufficient to create a conclusion that what he purportedly saw in Comerciante was indeed *shabu*.⁶¹ (Emphasis and underscoring ours)

The prosecution failed to establish the conditions set forth in Section 5 (a), Rule 113⁶² of the Rules of Court that: (a) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (b) such overt act is done in the presence or within the view of the arresting officer. As already discussed, standing on the street and holding a plastic sachet in one's hands cannot in any way be considered as criminal acts. Verily, it is not enough that the arresting officer had reasonable ground to believe that the accused had just

⁵⁹ Id. at 519-520.

⁶⁰ 764 Phil. 627 (2015).

⁶¹ Id. at 638-639.

⁶² Sec. 5. *Arrest without warrant; when lawful.* - A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

committed a crime; a crime must, in fact, have been committed first,⁶³ which does not obtain in this case.

As regards the ruling of the CA, wherein it noted that Dominguez was caught with a sachet of *shabu* in plain view, the Court holds that the plain view doctrine is inapplicable in the case at bar. In *People v. Compacion*,⁶⁴ citing *People v. Musa*,⁶⁵ the Court explained how the plain view doctrine applies and ruled that it does not apply if it is not readily apparent to the police officers that they have evidence incriminating the accused, thus:

The “plain view” doctrine may not, however, be used to launch unbridled searches and indiscriminate seizures nor to extend a general exploratory search made solely to find evidence of defendant’s guilt. The “plain view” doctrine is usually applied where a police officer is not searching for evidence against the accused, but nonetheless inadvertently comes across an incriminating object. [*Coolidge v. New Hampshire*, 403 U.S. 443, 29 L. Ed. 2d 564 (1971)] Furthermore, the U.S. Supreme Court stated the following limitations on the application of the doctrine:

What the “plain view” cases have in common is that the police officer in each of them had a prior justification for an intrusion in the course of which he came inadvertently across a piece of evidence incriminating the accused. The doctrine serves to supplement the prior justification — whether it be a warrant for another object, hot pursuit, search incident to lawful arrest, or some other legitimate reason for being present unconnected with a search directed against the accused — and permits the warrantless seizure. **Of course, the extension of the original justification is legitimate only where it is immediately apparent to the police that they have evidence before them; the “plain view” doctrine may not be used to extend a general exploratory search from one object to another until something incriminating at last emerges.** [*Id.*, 29 L. Ed. 2d 583. See also *Texas v. Brown*, 460 U.G. 730, 75 L. Ed. 2d 502 (1983)]

It was not even apparent to the members of the composite team whether the plants involved herein were indeed marijuana plants. After said plants were uprooted, SPO1 Linda had to conduct a field test on said plants by using a Narcotics Drug Identification Kit to determine if the same were indeed marijuana plants. Later, Senior Inspector Villavicencio, a forensic

⁶³ See *People v. Villareal*, supra note 59.

⁶⁴ 414 Phil. 68 (2001).

⁶⁵ 291 Phil. 623, 640 (1993).



chemist, had to conduct three (3) qualitative examinations to determine if the plants were indeed marijuana.⁶⁶

The plain view doctrine applies when the following requisites concur: (a) the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area; (b) the discovery of the evidence in plain view is inadvertent; and (c) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband, or otherwise subject to seizure.⁶⁷ The law enforcement officer must lawfully make an initial intrusion or properly be in a position from which he can particularly view the area.⁶⁸ In the course of such lawful intrusion, he came inadvertently across a piece of evidence incriminating the accused. The object must be open to eye and hand, and its discovery inadvertent.⁶⁹

In the case at hand, while it can be said that the presence of the police officers was legitimate as they were patrolling the area and that discovery of the plastic sachet was inadvertent, it should be emphasized that, as to the third requisite, it was clearly not apparent that such plastic sachet is an evidence of a crime, a contraband, or otherwise subject to seizure. To recall, when SPO1 Parchaso saw Dominguez, he only saw that Dominguez was holding a very small plastic sachet. To the Court's mind, a very small plastic sachet is not readily apparent as evidence incriminating Dominguez, such that it can be seized without a warrant. A very small plastic sachet can contain just about anything. It could even be just that — a very small plastic sachet — and nothing more.

Although laboratory results later showed that the plastic sachet taken from Dominguez indeed contained *shabu*, this cannot justify the seizure of the plastic sachet from Dominguez because at the time of the warrantless seizure, it was not readily apparent to SPO1 Parchaso that the very small plastic sachet contained anything, much less *shabu*. Thus, the circumstances of this case do not justify a seizure based on the plain view doctrine.

In sum, despite the fact that Dominguez can no longer question the validity of his arrest, it is crystal clear that the sachet of *shabu* seized from him during the warrantless search is inadmissible in evidence against him. There being no warrantless search incidental to a lawful arrest or seizure of evidence in plain view, the *shabu* purportedly seized from Dominguez is rendered inadmissible in evidence for being the proverbial fruit of the poisonous tree. As the confiscated *shabu* is the very *corpus delicti* of the crime charged, Dominguez must be acquitted and exonerated from all criminal liability.

The Court is not unaware of the drug menace that besets the country and the direct link of certain crimes to drug abuse.⁷⁰ The unrelenting drive

⁶⁶ *People v. Compacion*, supra note 64 at 84.

⁶⁷ *People v. Chi Chan Liu*, 751 Phil. 146, 169 (2015).

⁶⁸ *Id.* at 169-170.

⁶⁹ *Id.* at 170.

⁷⁰ *People v. Gatlabayan*, 669 Phil. 240, 261 (2011).

of law enforcers against trafficking and use of illegal drugs and other substance is indeed commendable.⁷¹ Those who engage in the illicit trade of dangerous drugs and prey on the misguided members of the society, especially the susceptible youth, must be caught and properly prosecuted.⁷² Nonetheless, the Court acknowledges that this campaign against drug addiction is highly susceptible to police abuse and that there have been cases of false arrests and wrongful indictments.

The Court has recognized, in a number of cases, that law enforcers resort to the practice of planting evidence to extract information from or even to harass civilians.⁷³ Thus, to the Court's mind, the allegation of Dominguez that he was a victim of extortion has the ring of truth to it. In this regard, the Court reminds the trial courts to exercise extra vigilance in trying drug cases, and directs the Philippine National Police to conduct an investigation on this incident and other similar cases, lest an innocent person is made to suffer the unusually severe penalties for drug offenses.

The overriding consideration is not whether the Court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt.⁷⁴ In order to convict an accused, the circumstances of the case must exclude all and every hypothesis consistent with his innocence.⁷⁵ What is required is that there be proof beyond reasonable doubt that the crime was committed and that the accused committed the crime.⁷⁶ It is only when the conscience is satisfied that the crime has indeed been committed by the person on trial that the judgment will be for conviction.⁷⁷ In light of this, Dominguez must perforce be acquitted.

As a final note, the Court reiterates that it is committed to assist the government in its campaign against illegal drugs; however, a conviction can only be obtained after the prosecution discharges its constitutional burden to prove guilt beyond reasonable doubt. Otherwise, this Court is duty-bound to uphold the constitutional presumption of innocence.⁷⁸

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated May 9, 2017 of the Court of Appeals in CA-G.R. CR No. 38665 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Marlon Dominguez y Argana is **ACQUITTED** of the crime charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

⁷¹ Id.

⁷² Id.

⁷³ *People v. Dela Cruz*, 666 Phil. 593, 610 (2011).

⁷⁴ *People v. Gatlabayan*, supra note 70 at 260.

⁷⁵ Id.

⁷⁶ Id., citing *People v. Mangat*, 369 Phil. 347, 359 (1999).

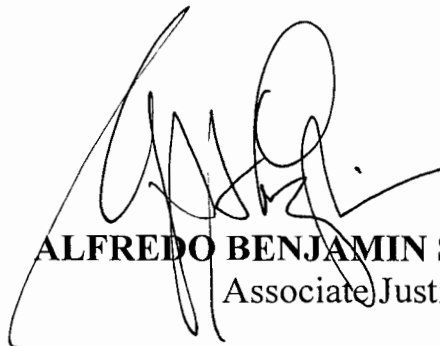
⁷⁷ Id.

⁷⁸ See id. at 261 and *People v. Jugo*, G.R. No. 231792, January 29, 2018, pp. 9-10.



Let a copy of this Decision be furnished the Superintendent of the New Bilibid Prison, Muntinlupa City, for immediate implementation. The said Superintendent is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Decision the action he has taken.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

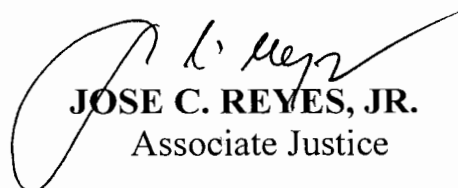
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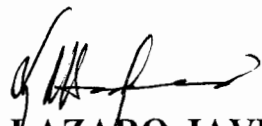
ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



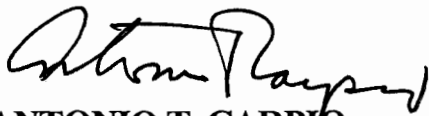
JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
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.



ANTONIO T. CARPIO
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.



LUCAS P. BERSAMIN
Chief Justice

