

SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 233802**
Plaintiff-Appellee,

- versus -

ANNABELLE BACULIO y OYAO
AND FLOYD JIM ORIAS y
CARVAJAL,

Accused,

Present:

PERLAS-BERNABE, J.,
Chairperson,
REYES, A., JR.,
HERNANDO,*
INTING, and
ZALAMEDA,** JJ.

ANNABELLE BACULIO y OYAO,
Accused-Appellant.

Promulgated:
20 NOV 2019

x-----x

RESOLUTION

INTING, J.:

This is an appeal from the Decision¹ dated June 22, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01368-MIN, which affirmed the Consolidated Judgment² dated October 7, 2014 of Branch 40, Regional Trial Court (RTC), Cagayan de Oro City in Criminal Case Nos. 2009-279 and 2009-280 which found accused-appellant Annabelle Baculio y Oyao (Baculio) and accused Floyd Jim Orias y Carvajal (Orias) guilty beyond reasonable doubt of the offense of Illegal Sale of Dangerous Drugs in violation of Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.³

* On leave.
** Designated additional member per Special Order No. 2724 dated October 25, 2019.
¹ *Rollo*, pp. 3-16; penned by Associate Justice Ruben Reynaldo G. Roxas with Associate Justices Edgardo A. Camello and Rafael Antonio M. Santos, concurring.
² *CA rollo*, pp. 40-52; penned by Presiding Judge Ma. Corazon B. Gaité-Llanderal.
³ *Id.* at 51.

Antecedents

Baculio and Orias were charged with violation of Section 5, Article II of RA 9165, in an Information⁴ dated April 3, 2009 which reads as follows:

Criminal Case No. 2009-280

That on April 1, 2009, at about 9:00 o'clock in the evening, more or less, at Lower Bantiles, Bugo, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, without being authorized by law, did then and there willfully, unlawfully and criminally have in their possession, sell, deliver, custody and control one (1) heat-sealed transparent plastic [sachet] containing white crystalline substance of methamphetamine [hydrochloride] locally known as shabu, a dangerous drug weighing [0.19 gram] and sold it to a poseur[-]buyer of PDEA, CDO, for a consideration of P500.00, marked money with serial number AA541660, accused knowing the same to be a dangerous drug.

Contrary to and in violation of Section 5, Article II of RA. 9165.⁵

Baculio was further charged with violation of Section 11, Article II of the same law in an Information filed on even date, *viz.*:

Criminal Case No. 2009-279

That on April 1, 2009, at about 9:00 o'clock in the evening, more or less, at Lower Bantiles, Bugo, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there wilfully, unlawfully and criminally possess and have under her control one (1) heat-sealed transparent plastic sachet containing white crystalline substance of methamphetamine hydrochloride, locally known as shabu, a dangerous drug weighing 0.22 gram, which after a confirmatory test conducted by the PNP Crime Laboratory, was found positive of the presence of methamphetamine hydrochloride and ephedrine,

⁴ Records, p. 1.

⁵ *Id.*

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respectively, accused knowing the same to be a dangerous drug.

Contrary to and in violation of Section 11, of Article II of RA 9165.⁶

On July 21, 2009, Orias and Baculio, assisted by their counsel *de parte*, entered their pleas of not guilty to the charge of illegal sale of dangerous drugs.⁷ On October 23, 2009, Baculio entered his plea of not guilty to the charge of illegal possession of dangerous drugs.⁸

Version of the Prosecution

On April 1, 2009, a team, composed of Philippine Drug Enforcement Agency (PDEA) Regional Office 10 operatives, was formed to conduct a buy-bust operation, per instruction of PDEA Deputy Regional Director Senior Police Officer III Benjamin S. Amacanin (SPO3 Amacanin) on the basis of a tip regarding the drug peddling activities of Orias and Baculio of Bugo, Bantiles, Cagayan de Oro City.⁹ During the briefing, Investigating Officer I Elvis Taghoy, Jr. (IO1 Taghoy) was designated as *poseur*-buyer, while IO1 Paul G. Avila (IO1 Avila) was tasked as the arresting officer. The rest of the team served as his back-up. The team prepared and marked a ₱500.00-bill as the buy-bust money in the operation.¹⁰

In the evening of the same day, after coordinating with the Cagayan de Oro City Police Office Precinct 85, the team, accompanied by the confidential informant, proceeded to the target area. IO1 Avila, IO1 Taghoy and the confidential informant then walked towards the house of Orias. IO1 Avila remained in an area about 10 meters away. The confidential informant knocked on the gate which was answered by Orias. Orias invited the confidential informant and IO1 Taghoy inside.¹¹

Inside the house, IO1 Taghoy saw three men, who were later identified as Norberto Baslon (Baslon), Ronie Montederamos (Montederamos) and Gerry Villarmino (Villarmino), sniffing *shabu*,

⁶ CA rollo, pp. 40-41.

⁷ Records, p. 32.

⁸ *Id.* at 45.

⁹ Rollo, p. 6.

¹⁰ *Id.*

¹¹ *Id.*

while Baculio was seated on the sofa.¹² IO1 Taghoy and the confidential informant sat down beside Orias. Then, the confidential informant asked Orias if they could purchase *shabu*.¹³ Orias answered in the positive and demanded ₱500.00 from IO1 Taghoy. The latter handed the ₱500.00 bill to Orias, who then handed the money to Baculio.¹⁴ Baculio then took out from her right pocket two heat-sealed plastic sachets containing white crystalline substance suspected to be *shabu*; she handed one sachet to Orias, who in turn, gave it to IO1 Taghoy.¹⁵

After examining the contents of the sachet, IO1 Taghoy executed the pre-arranged signal, putting his hand in his pocket to make a missed call to IO1 Avila through his cellphone. IO1 Avila and the rest of the team arrived, introduced themselves as PDEA agents, and ordered the people therein to lie face on the floor.¹⁶ IO1 Nestle Carin (IO1 Carin) frisked Baculio and recovered from her the marked money and a sachet of *shabu*.¹⁷

These were turned over to IO1 Avila, who then proceeded to the physical inventory and marking of the seized items. IO1 Avila marked the sachet bought by IO1 Taghoy as “PGA-BB” and the sachet recovered from Baculio as “PGA-1; he also marked the six sachets containing residue recovered from the buy-bust operation as “PGA-2” to “PGA-7.” Nelson Jumilla (Jumilla), a *barangay kagawad*, Luz Boro, a *barangay tanod*, and Richard de la Cruz, a member of the media witnessed the physical inventory and marking in the presence of Orias and Baculio in Orias’ house.¹⁸ Jumilla saw the seized sachets of *shabu* and the marked ₱500.00-bill on top of a table; and Orias, Baculio, and three others who were all handcuffed.¹⁹ Pictures were, likewise, taken during the operation and in the PDEA office where the team brought the arrested persons. At the PDEA office, IO1 Avila prepared the letter-request. He and IO1 Taghoy brought the arrested persons and the seized sachets with suspected *shabu* to the PNP Crime Laboratory for examination.²⁰

¹² *Id.* at 6-7.

¹³ TSN, March 11, 2011, p. 10

¹⁴ *Id.* at 11.

¹⁵ *Id.* at 12.

¹⁶ *Id.* at 13-14.

¹⁷ *Id.* at 15.

¹⁸ *Id.* at 16-17.

¹⁹ TSN, June 8, 2012, p. 6.

²⁰ TSN, March 11, 2011, pp.18-19.

Forensic Chemist PSI Charity Peralta Caceres examined the seized sachets and positively identified the contents thereof as methamphetamine hydrochloride (*shabu*), a dangerous drug.²¹ Orias and Baculio also tested positive for the presence of dangerous drugs.²²

Version of the Defense

Denying the charges against them, Orias and Baculio presented their own version of facts.

According to Orias, he worked as a bodybuilding instructor at the Body Fitness Center located in front of Del Monte Philippines, Bugo, Cagayan de Oro City and worked from Monday to Saturday from 7:00 a.m. to 8:00 p.m.²³ On April 1, 2009, Orias went home from work at around 9:00 p.m. and saw Baculio, Villamino, Montederamos and Buslon in his house. Baculio was there to get her bicycle. Orias told Baculio to wait for him since he wanted to rest and drink beer.²⁴

As he was about to get beer, Orias heard a commotion and a loud banging sound coming from someone kicking the door. Suddenly, a group of six to seven men entered his house through the front and back doors. The group told them that they were being arrested and ordered them to lie face down. The group, who were later identified as PDEA agents, were armed and pointed their guns towards them.²⁵

One agent then handcuffed Orias, who was flat on the floor. The agent stomped Orias' back to prevent him from looking at the faces of the PDEA agents. One of the agents also handcuffed Baculio and punched her in the stomach. Another agent hit Montederamos on the head with a firearm.²⁶

Thereafter, the PDEA agents ordered them to stand up and accused them of possession of dangerous drugs, which were placed on

²¹ Records, p. 7.

²² *Id.* at 8.

²³ TSN, March 31, 2014, pp. 4-5.

²⁴ *Id.* at 7.

²⁵ *Id.* at 7-8.

²⁶ *Id.* at 9.

top of a table.²⁷ Orias denied possessing any *shabu*.²⁸ The PDEA agents then questioned them about the money.²⁹

On the other hand, Baculio testified that in the evening of April 1, 2009, she went to the house of Orias to get her bicycle.³⁰ While Orias was getting the bicycle from the *bodega*, she heard a noise coming from someone kicking a gate.³¹ Thereafter, a group of armed men went inside Orias' house, pointed their guns at them, and ordered them to lie face down. One man was struck with an armalite on his face because of his defiance.

One of the men approached Baculio, who was sitting on a sofa, and told her to stand up. Then he frisked Baculio and touched her on the chest. Immediately, Baculio pushed him away. He retaliated by punching her on the left side of her abdomen, and pushed her to the floor to lie down.³² The men then searched the house of Orias. After 10 minutes, they ordered them to sit on the sofa.³³ The men brought Villamino, who was in handcuffs, to the sofa. A certain Reycitez then placed items on top of the table and took photographs.³⁴

Thereafter, a woman arrived and requested Baculio to stand up. She requested Baculio to remove her belt bag, bracelet, two cellphones, and wallet.³⁵ Baculio denied that any dangerous drug was taken from her.

After a while, a *barangay kagawad* arrived and took photographs of them with the items on the table.

Baculio also stated that the PDEA agents brought them to the PDEA office where she was told that if she would cooperate and produce ₱100,000.00, she can be released immediately.³⁶ Because she believed that she did not commit any crime, she refused to give in to their demand.³⁷

²⁷ *Id.* at 10.

²⁸ *Id.* at 11.

²⁹ *Id.*

³⁰ TSN, June 24, 2013, p. 3.

³¹ *Id.* at 4.

³² *Id.*

³³ TSN, June 24, 2013, p. 5.

³⁴ *Id.*

³⁵ TSN, June 24, 2013, p. 6.

³⁶ *Id.*

³⁷ TSN, June 24, 2013, p. 7.

Ruling of the RTC

In its Consolidated Judgment³⁸ dated October 7, 2014, the RTC acquitted Baculio of the crime of possession of dangerous drugs for insufficiency of evidence. However, it found Orias and Baculio guilty beyond reasonable doubt for violating Section 5, Article II of RA 9165.

The RTC found that the *poseur*-buyer positively identified Orias and Baculio as the persons from whom he was able to purchase ₱500.00 worth of *shabu*³⁹ and that the PDEA agents properly preserved and identified the seized items from the time of their confiscation up to the time of their submission in court.⁴⁰ The seized prohibited drug from the seller was likewise positively identified by IO1 Taghoy as the subject and consideration for the sale. The RTC further observed that the defense failed to offer evidence that the arresting officers were improperly motivated to falsely impute a crime against them. Lastly, the RTC ruled that the chain of custody of the seized prohibited drug was observed since IO1 Taghoy (who bought the prohibited drug in the buy-bust operation), IO1 Avila (who marked, inventoried, and delivered it to the crime laboratory for examination), and the forensic chemist were presented in court.⁴¹

The dispositive portion of the Consolidated Judgment states:

WHEREFORE, all the foregoing premises considered, the court hereby rules as follows:

1. In Crim. Case No. 2009-280, accused Floyd Jim C. Orias and Annabelle O. Baculio are found GUILTY beyond reasonable doubt of having committed the offense charged in the information (violation of Section 5, Article II of R.A. 9165). They are hereby sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of FIVE HUNDRED THOUSAND PESOS (P500,000.00) each, without subsidiary imprisonment in case of insolvency; and
2. In Crim. Case No. 2009-279, accused Annabelle O. Baculio is ordered ACQUITTED of the crime of

³⁸ CA rollo, pp. 40-52.

³⁹ *Id.* at 45.

⁴⁰ *Id.* at 46.

⁴¹ *Id.*

Violation of Section 11, Par. 2(3), Article II of R.A. No. 9165, for failure of the prosecution to prove her guilt beyond reasonable doubt.

The period of their preventive detention shall be credited in their favor. The sachets of shabu are hereby ordered forfeited in favor of the government for proper disposal in accordance with the rules.

SO ORDERED.⁴²

Dissatisfied with the RTC's verdict, Baculio and Orias appealed to the CA.⁴³

Ruling of the CA

The CA denied the appeal in its Decision⁴⁴ dated June 22, 2017.

The CA ruled that Orias was validly apprehended *in flagrante delicto* as a result of a buy-bust operation as he was caught in the act of selling *shabu* in the presence of *poseur*-buyer, IO1 Taghoy.⁴⁵

As to the chain of custody, the CA found that the totality of evidence presented by the prosecution led to the preservation and integrity of the seized items, which were positively identified by the prosecution to be the same items confiscated from Baculio and Orias.⁴⁶ It ratiocinated further that the absence of the *barangay* official and the other required witnesses during the buy-bust operation was not fatal as their presence is only required during the inventory.⁴⁷ It downplayed the lack of a representative from the National Prosecution Service (NPS) since the evidence on record shows that the integrity of the seized items was properly preserved eliminating doubt as to their integrity and evidentiary value.⁴⁸

The CA disposed as follows:

⁴² *Id.* at 51.

⁴³ *Id.* at 11-12.

⁴⁴ *Rollo*, pp. 3-16.

⁴⁵ *Id.* at 10.

⁴⁶ *Id.* at 13-14.

⁴⁷ *Id.* at 14.

⁴⁸ *Id.*

WHEREFORE, premises considered, the instant appeal is DENIED for lack of merit. The Consolidated Judgment dated 20 November 2014 of the Regional Trial Court, Branch 40, Cagayan de Oro City, convicting him of the crime of violation of Section 5, Article II of Republic Act No. 9165 is AFFIRMED *in toto*.

SO ORDERED.⁴⁹

Hence, this appeal.⁵⁰

The parties manifested that they are adopting the issues and arguments raised in their respective Appellant's and Appellee's Briefs⁵¹ filed before the CA instead of filing Supplemental Briefs before the Court.⁵²

The primordial issue brought to the Court for resolution is whether or not the chain of custody over the seized item was duly observed in accordance with Section 21, Article II of RA 9165.

Our Ruling

The appeal is meritorious.

Well-settled is the rule that to sustain a conviction for Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165, 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.⁵³

In this case, Baculio and Orias question the appreciation of the presence of the *corpus delicti* by the lower court. The *corpus delicti* of the offenses of illegal sale and illegal possession of dangerous drugs is the dangerous drugs seized from the accused;⁵⁴ thus, it is of utmost

⁴⁹ *Id.* at 15-16.

⁵⁰ *Id.* at 17-18.

⁵¹ CA rollo, pp. 14-39, 63-84.

⁵² Rollo, p. 36.

⁵³ See *People v. Dela Cruz*, 744 Phil. 825 (2014).

⁵⁴ *People v. Ismael*, 806 Phil. 21, 29 (2017).

importance that the integrity and identity of the seized drugs must be shown to have been duly preserved. It must be established that the subject of the sale which was acquired from the accused-appellants during the buy-bust operation must be the exact same item presented before the court. This is where the chain of custody requirement in drugs cases comes into play to ensure that doubts concerning the identity of the seized drugs are removed.⁵⁵


Under Section 21(1), Article II of RA 9165, the physical inventory and photographing shall, immediately after seizure and confiscation, be done in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official. Moreover, 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.

The Court notes that RA 10640 amended RA 9165 by modifying Section 21(1) thereof, which, among others, reduced the required witnesses to the physical inventory and photographing of the seized drugs to two: an elected public official and a representative of the NPS or the media during the physical inventory. Nevertheless, since the incidents herein occurred prior to RA 10640, Section 21(1), Article II of RA 9165 as originally worded still applies.⁵⁶

Baculio disputes the integrity of the *corpus delicti* and the various non-compliance by the apprehending officers with Section 21, Article II of RA 9165, to wit: (a) the item which was allegedly the subject of the sale was not immediately marked after confiscation at the place of arrest; (b) there was no witness from the DOJ; (c) the mandatory witnesses were not present during the actual conduct of the operation; and (d) there is no evidence as to the identity of the person who had custody and safekeeping of the seized items after examination pending presentation in court.

⁵⁵ *Mallillin v. People*, 576 Phil. 576, 587 (2008).

⁵⁶ See *People v. Tampus*, G.R. No. 221434, February 6, 2019.



To justify the foregoing acts, the Office of the Solicitor General (OSG) alludes to the saving clause as contained in the Implementing Rules and Regulations (IRR) of RA 9165 which essentially allows non-compliance with Section 21, Article II of RA 9165 so as not to automatically render void and invalid the seizure and custody of the seized items under justifiable grounds as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team.

While the Court recognizes that strict compliance with the requirements of Section 21, Article II of RA 9165 may not always be possible under varied field conditions,⁵⁷ and testimony about a perfect chain is not always possible to obtain,⁵⁸ jurisprudence specifically requires a more exacting standard before narcotic substances are accepted as evidence.⁵⁹ 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.⁶⁰ Indubitably, the rules require more than a statement by the apprehending officers of a justifiable ground for non-compliance.⁶¹ This ground must also be clearly indicated in their sworn affidavit, coupled with statements as to how the integrity of the seized item was preserved.⁶² With greater reason, a more rigid adherence to Section 21 must be observed in cases where the quantity of illegal drugs seized is minuscule, as in the instant case, since it is highly susceptible to planting, tampering, or alteration.⁶³

Based on the records of the case, the provisions of Section 21 were not observed. Although both IO1 Avila and IO1 Taghoy testified that there was a marking of the evidence, there was no definite statement as to where the marking of the seized items took place. There is nothing in their Joint Affidavit that point to the actual place of marking. The testimonies of the arresting officers, IO1 Avila and IO1 Taghoy, failed to explicitly demonstrate as to what point during the arrest and the exact place where the marking of the seized items was undertaken.⁶⁴

⁵⁷ *People v. Crispo*, G.R. No. 230065, March 14, 2018, 899 SCRA 356, 369.

⁵⁸ *Mallillin v. People*, *supra* note 55.

⁵⁹ *People v. Andrada*, G.R. No. 232299, June 20, 2018, 867 SCRA 484, 496-497.

⁶⁰ *People v. dela Rosa*, G.R. No. 230228, December 13, 2017, 849 SCRA 146, 163.

⁶¹ *People v. Sarip*, G.R. No. 231917, July 8, 2019.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ TSN, September 23, 2011, pp. 10-11; TSN, March 11, 2011, p. 18.

In *People v. Gonzales*,⁶⁵ as cited in *People v. Ismael*,⁶⁶ the Court emphasized that the marking of the dangerous drugs immediately upon their confiscation or recovery is indispensable in the preservation of their integrity and evidentiary value.⁶⁷ This is because succeeding handlers of dangerous drugs or related items will use the marking as reference.⁶⁸ In addition, this marking operates to set apart as evidence the dangerous drugs or related items from other material from the moment they are confiscated until they are disposed of at the close of the criminal proceedings, thereby forestalling switching, planting or contamination of evidence.⁶⁹

More importantly, the testimonies of the prosecution witnesses disclosed that there was non-compliance as to the presence of the mandatory witnesses to the inventory as decreed under Section 21(1), Article II of RA 9165. Specifically, the prosecution witnesses testified that a *barangay kagawad*, a *barangay tanod*, and a media representative witnessed the inventory of the seized items. However, their testimonies and the records do not show that all the mandatory witnesses required during the conduct of the inventory, *i.e.*, a representative from the DOJ, were present.

Further, there was even no recognition of the commission of the procedural lapses, or any justification provided by the apprehending officers for non-compliance with the chain of custody rule, particularly the blunder as to the absence of a representative from the NPS:

Direct testimony of IO1 Avila:

[Q] After you prepared this inventory, what did you do to that inventory?

[A] I let them to witness the inventory and let them signed.

[Q] Who signed the inventory?

[A] The barangay kagawad and myself.

x x x

⁶⁵ 708 Phil. 121 (2013).

⁶⁶ 806 Phil. 21 (2017).

⁶⁷ *People v. Gonzales*, *supra* note 65, at 131.

⁶⁸ *Id.*

⁶⁹ *Id.* citing *People v. Alejandro*, G.R. No. 176350, August 10, 2011, 655 SCRA 279, 289-290.

[Q] Now, there is here a name and signature over printed name Barangay Kagawad Nelson Jumilla, were you present when he signed this inventory?

[A] Yes.

[Q] How about this person Luz P. Boro, who is this Luz Boro?

[A] She was also there I think she was the tanod.

[Q] How about this Richard Dela Cruz?

[A] A member of the Media.

[Q] Media of what?

[A] I cannot remember.⁷⁰

Testimony on Cross Examination of IO1 Taghoy:

[Q] Were you able to see that inventory prepared by officer Avila?

[A] Yes.

x x x

[Q] There is here a name under witness to seizure and inventory Kagawad Nelson J. Jumilla, and a signature over it, who is this Kagawad Nelson Jumilla?

[A] Kagawad of Bantiles Bugo.

[Q] Did you see him affix his signature on this document?

[A] Yes.

[Q] How about this Luz Boro and a signature over it?

[A] I am [not] sure sir.⁷¹

While the absence of the required witnesses under Section 21, Article II of RA 9165 does not *per se* render the confiscated items inadmissible,⁷² the prosecution must adduce a justifiable reason for this failure or a showing of any genuine and sufficient effort to secure the required witnesses.⁷³ The presence of these personalities and the immediate marking and conduct of physical inventory after seizure and

⁷⁰ TSN, September 23, 2011, pp. 10-11.

⁷¹ TSN, March 11, 2011, p. 17.

⁷² *People v. Crispo*, *supra* note 57.

⁷³ *Id.*

confiscation in full view of the accused and the required witnesses cannot be brushed aside as a simple procedural technicality.⁷⁴

Deplorably, the prosecution did not even bother to explain as to why the presence of a representative from the DOJ was not secured during the conduct of the inventory. This loophole casts doubt on the identity and integrity of the drugs seized from Baculio and Orias.

In like manner, the prosecution failed to describe in their admission/stipulation the person who had custody of the seized prohibited drug and how the dangerous drug was handled for safekeeping to preserve its identity and integrity from the examination in the laboratory until its presentation to the court as evidence.

Anent the lack of witnesses during the entrapment operations, the OSG contends that RA 9165 only requires the presence of an elected public official, media representative, and a member of the DOJ during the inventory of the seized items and not in the conduct of the entrapment operations. To require otherwise would put in jeopardy the lives of the required witnesses who are not trained to protect themselves unlike law enforcement officers.

This issue is not novel. In *People v. Reyes*,⁷⁵ the Court ruled that there is substantial gap in the chain of custody in the absence of any representative of the media or of the DOJ, and of the elected public official during the buy-bust operation and at the time of the confiscation of the dangerous drugs from the accused in the area of operation. It was explained therein that the objective of requiring their presence during the buy-bust operation and at the time of the recovery or confiscation of the dangerous drugs from the accused in the area of operation was to ensure against planting of evidence and frame-up.⁷⁶ This was upheld in the latest case of *People v. Tanes y Belmonte*,⁷⁷ wherein the Court, expounded in this wise:

The RTC cannot thus be faulted for relying on the clear and unequivocal ruling made in *Jehar Reyes* because unless overturned, the same remains

⁷⁴ *People v. De la Victoria*, G.R. No. 233325, April 16, 2018, 861 SCRA 305, 322.

⁷⁵ G.R. No. 199271, October 19, 2016, 806 SCRA 513.

⁷⁶ *Id.* at 534-535.

⁷⁷ G.R. No. 240596, April 3, 2019.

good case law. To the contrary, *Jehar Reyes* has even been cited by the Court in at least six cases subsequent to it, one of which is *People v. Sagana*, wherein the Court made similar findings regarding the three-witness rule. Citing *Jehar Reyes*, the Court therein held:

Similarly, none of the required third-party representatives was present during the seizure and inventory of the dangerous articles. **Their presence in buy-bust operations and seizure of illicit articles in the place of operation would supposedly guarantee “against planting of evidence and frame-up.”** In other words, they are “necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity.”⁷⁸ (Emphasis in the original)

Thus, in view of the numerous gaps in the chain of custody in violation of the exacting standards laid down in Section 21, Article II of RA 9165 and the resulting doubt as to the identity of the drugs allegedly seized from Baculio and Orias, the Court is constrained to acquit them of the offense of illegal sale of dangerous drugs punishable under Section 5, Article II of RA 9165. In line with the doctrine that an accused who did not appeal benefits from a judgment obtained by one who instituted an appeal, if the same are favorable and applicable to him/her,⁷⁹ Orias should necessarily benefit from the acquittal of Baculio.

Consequently, a discussion on the other issues raised herein by Baculio would be an exercise in futility.


WHEREFORE, in view of the foregoing, the appeal is **GRANTED**. The Decision dated June 22, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 01368-MIN insofar as convicting Annabelle Baculio y Oyao and Floyd Jim Orias y Carvajal in Crim. Case No. 2009-280 for violation of Section 5, Article II of Republic Act No. 9165 is hereby **REVERSED** and **SET ASIDE**. Annabelle Baculio y Oyao and Floyd Jim Orias y Carvajal are hereby **ACQUITTED** of the offense of Illegal Sale of Dangerous Drugs for failure of the prosecution to prove their guilt beyond reasonable doubt. They are ordered **IMMEDIATELY RELEASED** from detention unless they are otherwise legally confined for another cause.

⁷⁸ *Id.*

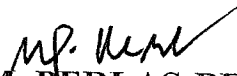
⁷⁹ *People v. Cabaya*, 411 Phil. 616-631 (2001).

Let a copy of this Resolution be sent to the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is **DIRECTED** to **REPORT** the action he has taken to this Court within five days from receipt of this Resolution.

SO ORDERED.

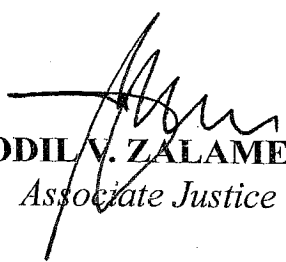

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



ANDRES B. REYES, JR.
Associate Justice

(On leave)
RAMON PAUL L. HERNANDO
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

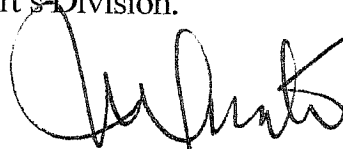
ATTESTATION

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


ESTELA M. PERLAS-BERNABE
Senior 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 Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice