

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

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 227854

Present:

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

- versus -

ROMELO DORIA y PEREZ,
Accused-Appellant.

Promulgated:

09 OCT 2019

X-----X

DECISION

CAGUIOA, J.:

The Court is not oblivious to the great evils brought about by the proliferation of illegal drugs. The Court recognizes the necessity of adopting a decisive and resolute stance against the scourge of illegal drugs. Nevertheless, the need to eradicate the spread of illegal drugs in our society can never justify the subversion of the people's constitutional right against the presumption of innocence. Otherwise, in eradicating one societal disease, a deadlier and more sinister one is cultivated - the trampling of the people's sacred and fundamental rights under the Constitution. The State's steadfastness in eliminating the drug menace must be equally matched by its determination to uphold the law.

On this note, once again, the Court holds with utmost emphasis that the mandatory requirements imposed under Section 21 of Republic Act No. (RA) 9165 cannot simply be ignored and swept aside by the police without any justifiable reason. Otherwise, Section 21 is reduced to an inutile provision of law. Unrecognized and unjustified violations of Section 21 inevitably lead to the acquittal of the accused.

The Case

Before the Court is an ordinary appeal¹ filed by the accused-appellant Romelo Doria y Perez (Doria), assailing the Decision² dated June 16, 2015 (assailed Decision) of the Court of Appeals³ (CA) in CA-G.R. CR-HC No. 06375, which affirmed the Decision⁴ dated July 26, 2013 rendered by the Regional Trial Court of Dagupan City, Branch 42 (RTC) in Criminal Case Nos. 2008-0021-D and 2008-0022-D, entitled *People of the Philippines v. Romelo Doria*, finding Doria guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165,⁵ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” as amended.

The Facts and Antecedent Proceedings

As narrated by the CA in the assailed Decision, and as culled from the records of the instant case, the essential facts and antecedent proceedings of the instant case are as follows:

[Doria] was charged in two (2) sets of Information both dated January 16, 2008 for violation of Sections 5 (Illegal Sale of Dangerous Drugs), and 11 (Illegal Possession of Dangerous Drugs) of Article II of Republic Act No. 91655 (“R.A. No. 9165” for brevity), allegedly committed as follows:

“That on or about the 15th day of January 2008, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ROMELO DORIA Y PEREZ, did then and there, willfully, unlawfully and criminally, sell and deliver to a customer Shabu contained in two (2) heat-sealed plastic sachets, weighing more or less 0.12 gram, without authority to do so.”

and

“That on or about the 15th day of January 2008, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ROMELO DORIA Y PEREZ, did then and there, willfully, unlawfully and criminally, have in his possession, custody and control Shabu contained in three (3) heat-sealed plastic sachets, weighing more or less 0.27 gram, without authority to possess the same.”

¹ See Compliance with Notice of Appeal dated July 13, 2015; *rollo*, pp. 17-19.

² Id. at 2-16. Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Manuel M. Barrios and Maria Elisa Sempio Diy, concurring.

³ Thirteenth Division.

⁴ CA *rollo*, pp. 41-49. Penned by Presiding Judge A. Florentino R. Dumlao, Jr.

⁵ 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” (2002).

Upon arraignment, [Doria] pleaded "NOT GUILTY" to both charges.

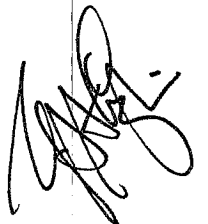
Pre-trial conference was held on February 7, 2008, and the parties stipulated only the identity of [Doria].

On February 15, 2008, [Doria] filed a Motion to Grant Bailbond with Motion for Reinvestigation, which was opposed by the prosecution.

On August 11, 2008, the [RTC] issued an Order denying [Doria's] motion. Trial on the merits then ensued.

During the trial, the prosecution presented the testimonies of PO2 Michael De Vera [(PO2 De Vera)], PO3 Jeffrey Tajon [(PO3 Tajon)], SPO1 Romeo Velasquez [(SPO1 Velasquez)], and Police Senior Inspector Emelda Besarra-Roderos [(PSI Besarra-Roderos)]. The prosecution also offered the following evidence: 1) Chemistry Report No. D-011-2008-U; 2) Initial Laboratory Report; 3) Request for Laboratory Examination; 4) five (5) subject sachets containing white crystalline substance; 5) small transparent containers with empty plastic sachets; 6) five (5) pieces of Php100.00 bill marked money; 7) two (2) pieces of Php100.00 bill; 8) Confiscation Receipt; 9) pictures of [Doria] and the seized items; 10) Certification of the Police Blotter; 11) Joint Affidavit of PO2 De Vera and PO1 Romulo B. Lavarias, Jr.; and 12) the Post Operation Report.

The evidence of the prosecution established that on January 15, 2008, members of the Philippine National Police (PNP) of Dagupan City conducted a conference meeting about having a buy-bust operation against a certain Marcelina Doris ("Marcelina" for brevity) who was a known drug peddler, and was reportedly residing in the house of Spouses Samuel and Melody Erguiza ("Sps. Erguiza" for brevity) in Pantal District, Dagupan City. The team leader, Police Inspector Leo Llamas ("PI Llamas" for brevity), instructed the police officers to form a buy-bust team. The team was composed of PI Llamas, PI George Sali-em, PO1 Romulo Lavarias [(PO1 Lavarias)], and PO2 De Vera. PO2 De Vera was designated as the poseur-buyer, who was to use five (5) pieces of One Hundred peso bills, which bore the markings, "MCV". PO1 Lavarias was tasked as PO2 De Vera's immediate back-up. The buy-bust operation and the serial numbers of the marked money were then recorded in the Police Blotter Book of the Dagupan City Police Station. The team then proceeded to the area of operation. At about fifty (50) meters away from the target place, PO2 De Vera alighted from the vehicle and walked towards the house of Sps. Erguiza. According to PO2 De Vera, he saw a male person, who would later be identified as [Doria], standing in front of Sps. Erguiza's house. PO2 De Vera approached [Doria] and looked for Marcelina who was also known as Mamang. [Doria] replied that Marcelina was not around and suddenly told PO2 De Vera in Pangasinan dialect, "Siak lay pangaliwan mo", which means "Just buy it from me". Surprised, PO2 De Vera brought out the marked money, and said that he wanted to buy shabu worth Five Hundred pesos. [Doria] then introduced himself as Romelo Doria. After PO2 De Vera handed to [Doria] the marked money, the latter brought out two (2) plastic sachets of suspected shabu. As a result, PO2 De Vera signaled to PO1 Lavarias in order to arrest [Doria]. [Doria], however, resisted the arrest and ran inside the house of Sps. Erguiza. PO2 De Vera and PO1 Lavarias chased [Doria] inside the house. They were able to arrest [Doria]. Afterwards, PO2 De



Vera and PO1 Lavarias conducted a bodily search on [Doria]. They were able to recover another three (3) plastic sachets of suspected shabu, two (2) empty plastic sachets, one (1) small scissor, one (1) disposable lighter, and the marked money.

According to PO2 De Vera, he informed [Doria] of his constitutional rights. PO2 De Vera then called PI Llamas and the police officers made a confiscation receipt of the items recovered from [Doria] at the place of the incident. Later, [Doria] was brought to Dagupan City Police Station for recording and disposition. PO2 De Vera marked the five (5) plastic sachets of suspected shabu with, "MCV-1" to "MCV-5". PO2 De Vera said that he could not remember if he marked the other seized items, but the police officers took photographs of the items and of [Doria]. A Request for Laboratory Examination of the seized items was prepared and signed by PI Llamas. The Request for Laboratory Examination, together with the five (5) plastic sachets of suspected shabu, were submitted by PO2 De Vera to the PNP Crime Laboratory in Urdaneta City, Pangasinan. The Request for Laboratory Examination and the seized items were received by the duty receiving officer, PO3 Tajon, on January 16, 2008. PO3 Tajon then delivered it to the Forensic Chemist, PSI Besarra-Roderos. Afterwards, PSI Besarra-Roderos subjected the seized items to laboratory examination. She found all the items to be positive for the presence of methamphetamine hydrochloride, a dangerous drug, as stated in the Chemistry Report No. D-011-2008-U28 that she prepared.

On the other hand, the defense presented the lone testimony of [Doria]. [Doria] testified that on January 15, 2008, he was in the house of his wife in Calasiao. At around 3:00 in the afternoon of the same day, [Doria] went to Brgy. Pantal, Dagupan City in the house of his brother-in-law, Sammy Enriquez, to borrow money. Enriquez lent [Doria] Php1,000.00 consisting of ten (10) pieces of One Hundred peso bill. After staying in Enriquez's house for an hour, [Doria] asked permission to leave. While waiting for a tricycle along the highway, about two (2) meters away from the house of Enriquez, two (2) women approached [Doria] and asked for Mamang, referring to Marcelina Doria who is [Doria's] mother. [Doria] replied that he did not know where his mother was. Afterwards, five (5) persons alighted from a tricycle. One of them immediately poked a gun at [Doria]. When [Doria] asked what was his offense, they told him, "Don't asked (*sic*) us, it is only us who has the right to asked (*sic*) you." Suddenly, they boxed [Doria] on his stomach, restrained his hands, and handcuffed him. They then grabbed [Doria's] shirt and forced him to ride in the patrol car. [Doria] narrated that he was brought to the police station in Perez, Dagupan City. Upon their arrival, [Doria] was placed in the investigation room. Inside the room, the police officers said, "never mind, we did not caught (*sic*) Mamang, anyway, we were able to caught her son". Again, the police officers hurt [Doria]. [Doria] stated that the police officers brought him to Region I Medical Center for medical examination. After he was checked by a doctor if he was drunk, [Doria] was brought back to the police station. A police blotter was recorded, and [Doria] was put in jail. The following day, or on January 16, 2008, [Doria] was again placed inside the investigation room. There, the police officers showed him some pieces of evidence, which were the alleged sachets of shabu. [Doria] told the police officers that those items were not his. Despite telling them that the items were not owned by him, the police officers still asked him to point at the evidence, and took photographs of him. [Doria] further testified that the police officers confiscated his wallet and cellular

phone. After several days, [Doria's] wallet was returned to him without the money he borrowed from Sammy, while [Doria's] cellular phone was returned to his wife. [Doria] said that PO2 De Vera was not present during the incident, and added that PO2 De Vera is familiar to him because [Doria] is a resident of Dagupan City.⁶

The Ruling of the RTC

On July 26, 2013, the RTC rendered its Decision convicting Doria on both charges. The dispositive portion of the RTC's Decision reads:

WHEREFORE, premises considered, the court finds the accused **ROMELO DORIA GUILTY** beyond reasonable doubt of the crime of **Violation of Section 5 of Article II of RA 9165 in Criminal Case No. 2008-0021-D** and accordingly, he is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine in the amount of **FIVE HUNDRED THOUSAND (P500,000.00) PESOS**;

Accused **ROMELO DORIA** is also found **guilty** beyond reasonable doubt of the crime of **Violation (sic) Section 11 of Article II, RA. 9165 in Criminal Case No. 2008-0022-D** and is hereby imposed with the penalty of **Twelve (12) years, One (1) day to Twenty (20) years** and to pay a fine of **THREE HUNDRED THOUSAND (P300,000.00) PESOS**.

SO ORDERED.⁷

Feeling aggrieved, Doria filed an appeal before the CA.

The Ruling of the CA

In the assailed Decision, the CA affirmed the RTC's conviction of Doria. The dispositive portion of the assailed Decision reads:

WHEREFORE, the Appeal is **DENIED**. The Decision dated July 26, 2013 of the Regional Trial Court of Dagupan City, Branch 42 is hereby **AFFIRMED**.

SO ORDERED.⁸

According to the CA's assessment, "[i]n the present case, the evidence on record showed the presence of all the elements for the crimes charged against [Doria]."⁹

⁶ Rollo, pp. 2-7.

⁷ CA rollo, p. 49.

⁸ Rollo, pp. 15.

⁹ Id. at 8.



Hence, the instant appeal.

Issue

Stripped to its core, for the Court's resolution is the issue of whether the RTC and CA erred in convicting Doria for violating Sections 5 and 11, Article II of RA 9165.

The Court's Ruling

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

Essential Elements of Illegal Sale and Possession of Dangerous Drugs

Doria was charged with the crime of illegal sale and possession of dangerous drugs, defined and penalized under Sections 5 and 11, respectively, of Article II of RA 9165.

In order to convict a person charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution is required to prove the following elements: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor.¹⁰

On the other hand, illegal possession of dangerous drugs under Section 11, Article II of RA 9165 has the following elements: (1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.¹¹

Establishing the Corpus Delicti of the Crime: Strict Compliance with Section 21 of RA 9165

In cases involving dangerous drugs, the State bears not only the burden of proving these elements, but also of proving the *corpus delicti* or the body of the crime. In drug cases, the dangerous drug itself is the very *corpus delicti* of the violation of the law.¹² While it is true that a buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors,¹³ the law nevertheless also

¹⁰ *People v. Opiana*, 750 Phil. 140, 147 (2015).

¹¹ *People v. Fernandez*, G.R. No. 198875 (Resolution), June 4, 2014, p. 2.

¹² *People v. Guzon*, 719 Phil. 441, 451 (2013).

¹³ *People v. Mantalaba*, 669 Phil. 461, 471 (2011).

requires **strict compliance** with procedures laid down by it to ensure that rights are safeguarded.

In all drugs cases, therefore, compliance with the chain of custody rule is crucial in any prosecution that follows such operation. Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.¹⁴ The rule is imperative, as it is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that required to make a finding of guilt.¹⁵

In this connection, Section 21, Article II of RA 9165,¹⁶ the applicable law at the time of the commission of the alleged crimes, lays down the procedure that police operatives must follow to maintain the integrity of the confiscated drugs used as evidence. The provision requires that: (1) **the seized items be inventoried and photographed immediately after seizure or confiscation;** and (2) **the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy thereof.**

This must be so because with “the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets of or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great.”¹⁷

Section 21 of RA 9165 further requires the apprehending team to conduct a physical inventory of the seized items and the photographing of

¹⁴ *People v. Guzon*, supra note 11, citing *People v. Dumaplin*, 700 Phil. 737, 747 (2012).

¹⁵ *Id.*, citing *People v. Remigio*, 700 Phil. 452, 464-465 (2012).

¹⁶ The said section reads as follows:

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 drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same 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 who shall be required to sign the copies of the inventory and be given a copy thereof[.]

¹⁷ *People v. Santos, Jr.*, 562 Phil. 458, 471 (2007), citing *People v. Tan*, 401 Phil. 259, 273 (2000).

the same immediately after seizure and confiscation. The said inventory must be done in the presence of the aforementioned required witness, all of whom shall be required to sign the copies of the inventory and be given a copy thereof. The phrase “immediately after seizure and confiscation” means that the physical inventory and photographing of the drugs were intended by the law to be made **immediately after, or at the place of apprehension**. It is only when the same is not practicable that the Implementing Rules and Regulations (IRR) of RA 9165 allows the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team.¹⁸ In this connection, this also means that the three required witnesses should already be physically present at the time of apprehension — **a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity**. Verily, a buy-bust team normally has enough time to gather and bring with them the said witnesses.

*The Buy-Bust Team's Wholesale Violation
of the Mandatory Procedures under Section
21 of RA 9165*

In the instant case, it is beyond serious dispute that **all** of the mandatory procedures required under Section 21 of RA 9165 have been violated by the buy-bust team.

*First and foremost, **not even one of the required witnesses witnessed the buy-bust operation and the inventory and photographing of the alleged drug specimen supposedly retrieved from Doria.***

The witnesses of the prosecution failed to testify as to the presence of any of the required witnesses during the conduct of the inventory. Nor do the pieces of documentary evidence presented by the prosecution show that the presence of the three required witnesses was secured by the authorities. Astonishingly, both the RTC and CA failed to appreciate the glaring and significant fact that there were no representatives from the media, the DOJ, and an elective public official who witnessed the inventory and photographing of the evidence.

*Second, **the inventory receipt produced by the prosecution, i.e., the handwritten Confiscation Receipt¹⁹ dated January 15, 2008, contains the lone signature of PO2 De Vera.*** To reiterate once more, Section 21 of RA 9165 requires the signatures of the accused and/or his/her representative and the three required witnesses.

¹⁸ IRR of RA 9165, Art. II, Sec. 21(a).

¹⁹ RTC Records, p. 16.



Third, while testifying that the Confiscation Receipt was prepared at the place of the incident, in the same breath, the prosecution's main witness, PO2 De Vera, testified that **the recording, disposition, and inventory of the supposedly confiscated drug specimen were conducted at the Dagupan City Police Station (DCPS) and not at the place of apprehension:**

Q After the recovery of the items and three sachets of suspected shabu from the possession of the male person, what did you do?

A I immediately informed the right of the accused, sir.

Q After informing him of his right, what else happened?

A I called up thru cellphone our team leader PI Leo Llamas, sir.

Q What happened after you called up PI Leo Llamas?

A We immediately brought the suspect at DCPS for proper recording and disposition, sir.

Q How about the items that you recovered from his possession what did you do with them?

A We made an inventory and a request letter addressed to PNP Crime Laboratory in Lingayen, sir.²⁰

To stress, Section 21 of RA 9165 requires the apprehending team to conduct a physical inventory of the seized items and the photographing of the same immediately after seizure and confiscation after or at the place of apprehension. As established by the prosecution's own testimony, this mandatory rule was not observed.

Fourth, in further engendering serious doubt as to the integrity of the specimen allegedly retrieved from the person of Doria, PO2 De Vera himself acknowledges that with respect to some of the plastic containers allegedly confiscated from Doria's left pocket, he "**did not place any marking**, however we took pictures on the said recovered items, sir."²¹

In fact, the CA itself factually found that PO2 De Vera "could not remember if he marked the other seized items[.]"²²

Once again, the Court stresses that the presence of the required witnesses at the time of the inventory, which should be conducted immediately at the place of apprehension, is **mandatory** because such rule serves an essential purpose.

²⁰ TSN dated May 26, 2010, pp. 6-7.

²¹ Id. at 9. Emphasis and underscoring supplied.

²² *Rollo*, p. 5.

In *People v. Tomawis*,²³ the Court elucidated on the purpose of the law in mandating the presence of the required witnesses as follows:

The presence of the witnesses from the DOJ, media, and from public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug. Using the language of the Court in *People v. Mendoza*,²⁴ **without the insulating presence of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drugs, the evils of switching, "planting" or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA No. 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the subject sachet that was evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.**

The presence of the three witnesses must be secured not only during the inventory but more importantly at the time of the warrantless arrest. It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses would also controvert the usual defense of frame-up as the witnesses would be able to testify that the buy-bust operation and inventory of the seized drugs were done in their presence in accordance with Section 21 of RA 9165.

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so — and “calling them in” to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.

To restate, the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs “immediately after seizure and confiscation.”²⁵

Hence, the procedures mandatorily imposed under Section 21 of RA 9165 are not mere paper rules that can be simply overlooked and ignored. Without the insulating presence of the required witnesses, the real possibility of switching, planting, or contamination of evidence negates the integrity and credibility of the *corpus delicti*. Therefore, the RTC and CA’s stance of complete ignorance with respect to the buy-bust team’s brazen violation of Section 21 of RA 9165 is reprehensible.

²³ G.R. No. 228890, April 18, 2018, 862 SCRA 131.

²⁴ 736 Phil. 749 (2014).

²⁵ *People v. Tomawis*, supra note 23 at 149-150.



Both the RTC and CA seriously overlooked the long-standing legal tenet that the starting point of every criminal prosecution is that the accused has the constitutional right to be presumed innocent.²⁶ And this presumption of innocence is overturned only when the prosecution has discharged its burden of proof in criminal cases that it has proven the guilt of the accused beyond reasonable doubt,²⁷ with each and every element of the crime charged in the information proven to warrant a finding of guilt for that crime or for any other crime necessarily included therein.²⁸ Differently stated, there must exist no reasonable doubt as to the existence of each and every element of the crime to sustain a conviction.

It is worth emphasizing that **this burden of proof never shifts**. Indeed, the accused need not present a single piece of evidence in his defense if the State has not discharged its onus. The accused can simply rely on his right to be presumed innocent.

In this connection, the prosecution therefore, in cases involving dangerous drugs, **always** has the burden of proving compliance with the procedure outlined in Section 21. As the Court stressed in *People v. Andaya*:²⁹

x x x We should remind ourselves that we cannot presume that the accused committed the crimes they have been charged with. **The State must fully establish that for us.** If the imputation of ill motive to the lawmen is the only means of impeaching them, then that would be the end of our dutiful vigilance to protect our citizenry from false arrests and wrongful incriminations. We are aware that there have been in the past many cases of false arrests and wrongful incriminations, and that should heighten our resolve to strengthen the ramparts of judicial scrutiny.

Nor should we shirk from our responsibility of protecting the liberties of our citizenry just because the lawmen are shielded by the presumption of the regularity of their performance of duty. The presumed regularity is nothing but a purely evidentiary tool intended to avoid the impossible and time-consuming task of establishing every detail of the performance by officials and functionaries of the Government. Conversion by no means defeat the much stronger and much firmer presumption of innocence in favor of every person whose life, property and liberty comes under the risk of forfeiture on the strength of a false accusation of committing some crime.³⁰ (Emphasis and underscoring supplied)

²⁶ CONSTITUTION, Art. III, Sec. 14, par. (2): "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved x x x."

²⁷ The Rules of Court provides that proof beyond reasonable doubt does not mean such a degree of proof as excluding possibility of error, produces absolute certainty. Only moral certainty is required, or that degree of proof which produces conviction in an unprejudiced mind. (RULES OF COURT, Rule 133, Sec. 2)

²⁸ *People v. Belocura*, 693 Phil. 476, 503-504 (2012).

²⁹ 745 Phil. 237 (2014).

³⁰ Id. at 250-251.

To stress, the accused can rely on his right to be presumed innocent. It is thus immaterial, in this case or in any other cases involving dangerous drugs, that the accused put forth a weak defense.

Concededly, Section 21 of the IRR of RA 9165 provides 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.” For this provision to be effective, however, the prosecution must first (1) recognize any lapses on the part of the police officers and (2) be able to justify the same.³¹ **In this case, the prosecution neither recognized, much less tried to justify, its unabashed deviations from the procedure contained in Section 21, RA 9165.**

Breaches of the procedure outlined in Section 21 committed by the police officers, left unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt against the accused as the integrity and evidentiary value of the *corpus delicti* would necessarily have been compromised.³² As the Court explained in *People v. Reyes*:³³

Under the last paragraph of Section 21(a), Article II of the IRR of R.A. No. 9165, a saving mechanism has been provided to ensure that not every case of non-compliance with the procedures for the preservation of the chain of custody will irretrievably prejudice the Prosecution's case against the accused. **To warrant the application of this saving mechanism, however, the Prosecution must recognize the lapse or lapses, and justify or explain them. Such justification or explanation would be the basis for applying the saving mechanism.** Yet, the Prosecution did not concede such lapses, and did not even tender any token justification or explanation for them. **The failure to justify or explain underscored the doubt and suspicion about the integrity of the evidence of the *corpus delicti*.** With the chain of custody having been compromised, the accused deserves acquittal. x x x³⁴ (Emphasis supplied)

In *People v. Umipang*,³⁵ the Court dealt with the same issue where the police officers involved did not show any genuine effort to secure the attendance of the required witness before the buy-bust operation was executed. In the said case, the Court held:

Indeed, the absence of these representatives during the physical inventory and the marking of the seized items does not *per se* render the confiscated items inadmissible in evidence. However, we take note that, in this case, the SAID-SOTF did not even attempt to contact the *barangay* chairperson or any member of the *barangay* council. There is no indication that they contacted other elected public officials. Neither do the records show whether the police officers tried to get in touch with

³¹ See *People v. Alagarme*, 754 Phil. 449, 461 (2015).

³² See *People v. Sumili*, 753 Phil. 342 (2015).

³³ 797 Phil. 671 (2016).

³⁴ Id. at 690.

³⁵ 686 Phil. 1024 (2012).

any DOJ representative. Nor does the SAID-SOTF adduce any justifiable reason for failing to do so — especially considering that it had sufficient time from the moment it received information about the activities of the accused until the time of his arrest.

Thus, we find that there was no genuine and sufficient effort on the part of the apprehending police officers to look for the said representatives pursuant to Section 21(1) of R.A. 9165. **A sheer statement that representatives were unavailable — without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances — is to be regarded as a flimsy excuse. We stress that it is the prosecution who has the positive duty to establish that earnest efforts were employed in contacting the representatives enumerated under Section 21(1) of R.A. 9165, or that there was a justifiable ground for failing to do so.**³⁶
(Emphasis and underscoring supplied)

In sum, the prosecution miserably failed to provide justifiable grounds for the apprehending team's deviations from the rules laid down in Section 21 of RA 9165. The integrity and evidentiary value of the *corpus delicti* have thus been compromised. In light of this, Doria must perforce be acquitted.

The Final Note

The Court *sternly* reminds the trial and appellate courts to exercise extra vigilance in trying and deciding drug cases. Further, the Court exhorts the prosecutors to diligently discharge their onus to prove compliance with the provisions of Section 21 of RA 9165, as amended, and its IRR, which is fundamental in preserving the integrity and evidentiary value of the *corpus delicti*. **To the mind of the Court, the procedure outlined in Section 21 is straightforward and easy to comply with.** In the presentation of evidence to prove compliance therewith, the prosecutors are enjoined to recognize any deviation from the prescribed procedure and provide the explanation therefor as dictated by available evidence. Compliance with Section 21 being integral to every conviction, the appellate court, this Court included, is at liberty to review the records of the case to satisfy itself that the required proof has been adduced by the prosecution whether the accused has raised, before the trial or appellate court, any issue of non-compliance. If deviations are observed and no justifiable reasons are provided, the conviction must be overturned, and the innocence of the accused affirmed.³⁷

In the instant case, despite the blatant disregard of the mandatory requirements provided under RA 9165, Doria has been made to suffer incarceration for almost 12 years. While the Court now reverses this grave injustice by ordering the immediate release of Doria, there is truth in the time-honored precept that *justice delayed is justice denied*. The accused will

³⁶ Id. at 1052-1053.

³⁷ See *People v. Jugo*, G.R. No. 231792, January 29, 2018, 852 SCRA 321.



never be able to recover the precious years he arduously spent under unjust incarceration. Such an injustice must not be repeated.

Undoubtedly, the spread of illegal drugs must be quelled. Our Constitution declares that the maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.³⁸

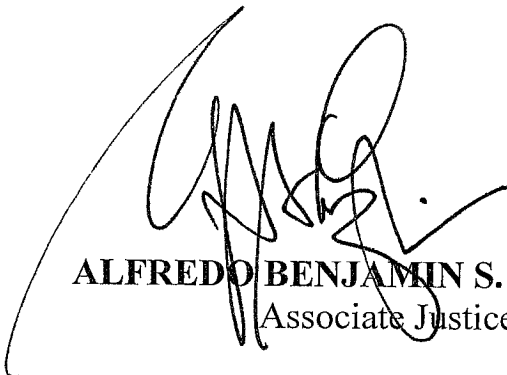
Nevertheless, by sacrificing the sacred and indelible right to due process for the sheer sake of convenience and expediency, the very maintenance of peace and order sought after is rendered wholly nugatory. By thrashing basic constitutional rights as a means to curtail the proliferation of illegal drugs, instead of protecting the general welfare, oppositely, the general welfare is viciously assaulted. In other words, when the Constitution is disregarded, the war on illegal drugs becomes a self-defeating and self-destructive enterprise. A battle waged against illegal drugs that tramples on the rights of the people, is not a war on drugs; it is a war against the people.

The sacred and indelible right to due process enshrined under our Constitution, fortified under statutory law, should never be sacrificed for the sheer sake of convenience and expediency. Otherwise, the malevolent mantle of the rule of men dislodges the rule of law. In any law-abiding democracy, this cannot and should not be allowed.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated June 16, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 06375 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Romelo Doria y Perez is **ACQUITTED** of the crimes 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.

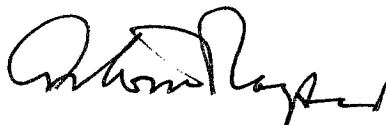
Let a copy of this Decision be furnished the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The said Director is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Decision the action he has taken.

SO ORDERED.

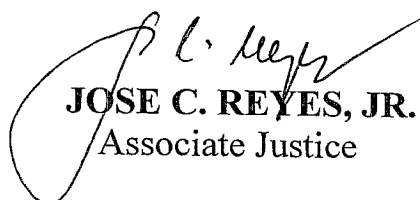

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

³⁸ CONSTITUTION, Art. II, Sec. 5.

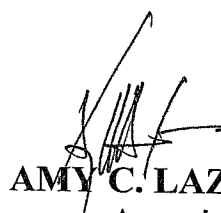
WE CONCUR:



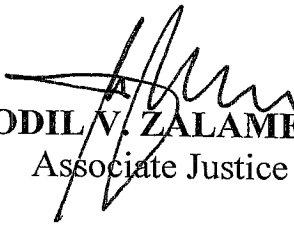
ANTONIO T. CARPIO
Associate Justice
Chairperson



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



RODIL V. ZALAMEDA
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.

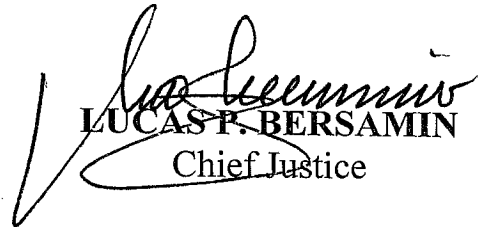


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division



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

