

Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE  
PHILIPPINES,

*Plaintiff-Appellee,*

- versus-

G.R. No. 252902

Present:

PERLAS-BERNABE, *SAJ*,  
*Chairperson,*  
LAZARO-JAVIER,  
M. LOPEZ,  
ROSARIO, and  
J. LOPEZ,\* *JJ.*

SPO1 ALEXANDER  
ESTABILLO y PALARA,

*Accused-Appellant.*

Promulgated:

JUN 16 2021

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DECISION

LAZARO-JAVIER, *J.:*

The Case

This appeal assails the following dispositions of the Court of Appeals in CA-G.R. CR-HC No. 08244 entitled *People of the Philippines v. SPO1 Alexander Estabillo y Palara*:

1. Decision<sup>1</sup> dated April 26, 2019 affirming the conviction of SPO1 Alexander Estabillo y Palara for violation of Sections 5 and 11 of Republic Act No. (RA) 9165; and

\* Designated as additional member per S.O. No. 2822 dated April 7, 2021.

<sup>1</sup> Penned by Associate Justice Maria Filomena D. Singh and concurred in by Associate Justices Japar B. Dimaampao and Manuel M. Barrios; *rollo*, p. 3-31.

2. Resolution<sup>2</sup> dated October 9, 2019 denying reconsideration.

### Antecedents

Under two (2) separate Informations dated July 13, 2010, appellant was charged with violation of Sections 5 and 11, RA 9165,<sup>3</sup> thus:<sup>4</sup>

#### Criminal Case No. 17172-D-PSG

That on or about June 14, 2010, at Barangay Ugong, Pasig City and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully, knowingly and feloniously have in his possession, custody, and control the following: two (2) bricks sealed with packaging tape, each weighing more or less 1078.89 grams and 1041.57 grams of cocaine, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.

#### Criminal Case No. 17173-D-PSG

That on or about June 14, 2010, at Barangay Ugong, Pasig City and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully, knowingly and feloniously sell, trade, deliver, give away to another and distribute to SPO1 Leonardo G. Taldo, of the Philippine National Police-Anti-Illegal Drugs Special Operations Task Force (PNP-AIDSOTF), who acted as poseur buyer, two (2) bricks sealed with packaging tape, each weighing more or less 1046.22 grams and 1065.75 grams of cocaine, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.

On arraignment, appellant pleaded *not guilty* to both charges.<sup>5</sup> Trial ensued.

During the trial, forensic chemist PSI Mark Alain B. Ballesteros (PSI Ballesteros), SPO2 Leonardo Taldo (SPO2 Taldo),<sup>6</sup> PO3 Lawrence Perida (PO3 Perida), SPO3 Miguel Ngo (SPO3 Ngo), and SPO3 Glenn Marlon Caluag (SPO3 Caluag)<sup>7</sup> testified for the prosecution. Meanwhile, appellant, his daughter Carla Mendoza (Carla), and Dennis Perillo (Perillo) of GMA 7 News and Current Affairs testified for the defense.<sup>8</sup>

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<sup>2</sup> Penned by Associate Justice Maria Filomena D. Singh and concurred in by Associate Justices Japar B. Dimaampao and Manuel M. Barrios; *CA rollo*, p. 321.

<sup>3</sup> 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.

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

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

<sup>6</sup> Also appears as SPO1 Taldo in the records.

<sup>7</sup> Also appears as SPO1 Caluag in the records.

<sup>8</sup> *Rollo*, p. 5.

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### Version of the Prosecution

On June 13, 2010, P/SSupt. Eduardo P. Acierto (P/SSupt. Acierto) received a report from a confidential informant regarding the drug activities of a certain “Alex”, a member of the Philippine National Police (PNP) assigned at the Ninoy Aquino International Airport. According to the confidential informant, “Alex” operated in Makati City and had in his possession a huge amount of cocaine. Acting on the information, P/SSupt. Acierto instructed Police Superintendent Ismael G. Fajardo, Jr. (P/Supt. Fajardo) to conduct a buy-bust operation against “Alex”. Thus, P/Supt. Fajardo designated Police Inspector Jay James Nepomuceno as the team leader, SPO2 Taldo as the poseur-buyer, and SPO3 Ngo and PO3 Perida as the arresting officers. Meanwhile, the confidential informant arranged a test buy with “Alex” for the following day.<sup>9</sup>

On June 14, 2010, around 8:20 in the evening, the buy bust team, together with the confidential informant arrived at A Venue along Makati Avenue, Makati City. There, the confidential informant introduced SPO2 Taldo to “Alex”, later identified as appellant Estabillo. Appellant informed SPO2 Taldo that the price of cocaine was ₱1,500,000.00 per kilo. SPO2 Taldo ordered four (4) kilos of cocaine and asked for a sample. Appellant gave SPO2 Taldo a gram of suspected cocaine, for which the latter paid ₱1,500.00. Before they separated, they agreed that appellant would contact the confidential informant once the four (4) kilos of cocaine becomes available.<sup>10</sup>

SPO2 Taldo brought the sample to the PNP Crime Laboratory for examination which yielded positive for cocaine.<sup>11</sup>

On June 15, 2010, around 10:30 in the morning, SPO2 Taldo received news from the confidential informant that the four (4) kilos of cocaine he ordered from appellant was already available. Too, SPO2 Taldo was to pay appellant ₱6,000,000.00 at Mercury Drugstore, Las Fiestas Drive, Frontera Verde, Barangay Ugong, Pasig City at 11 o'clock that evening. Thus, the buy bust team prepared for the operation.<sup>12</sup>

Around 6 o'clock in the evening, P/Supt. Fajardo presided over a final briefing at the PNP-AIDSOTF. He gave SPO2 Taldo six (6) ₱500.00 bills dusted with ultraviolet powder. The bills were placed on top of 60 bundles of boodle money inside a striped red paper bag. The buy bust team agreed that SPO2 Taldo would dial SPO3 Ngo's mobile number once the transaction had been consummated. They also coordinated with the Philippine Drug Enforcement Agency (PDEA) after the final briefing.<sup>13</sup>

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<sup>9</sup> *Id.* at 5-6.

<sup>10</sup> *Id.* at 6.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 7.

<sup>13</sup> *Id.*

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Around 9 o'clock in the evening, the team proceeded to the area of operation. About two (2) hours later, appellant arrived on board a white and silver Mitsubishi Strada with plate number XDH 474. Appellant stopped in front of SPO2 Taldo and told the latter to board the front passenger seat of his car.<sup>14</sup>

Inside the vehicle, appellant handed to SPO2 Taldo a maroon-brown shoebox labeled Otto containing two (2) bricks of suspected cocaine. In exchange, SPO2 Taldo handed appellant the boodle money. Before appellant could start counting its contents, SPO2 Taldo dialed SPO3 Ngo's number.<sup>15</sup>

The other members of the team rushed to the vehicle and arrested appellant. PO3 Perida recovered the boodle money from appellant while SPO2 Taldo proceeded to mark the two (2) bricks of suspected cocaine in the Otto shoebox with LPP 06152315 2010 and LPP1 06152315 2010 together with his signature.<sup>16</sup> Upon further search of the vehicle, PO3 Perida recovered a yellow Mario D'Boro box containing two (2) more bricks of suspected cocaine from behind the driver seat which he marked LPP2 06152315 2010 and LPP3 06152315 2010 with his signature.<sup>17</sup> The seized items were then placed in front of the vehicle for the witnesses to see.<sup>18</sup>

The marking was done in the presence of Barangay Kagawad Felix Santos (Kagawad Santos) and two (2) representatives from the media, Erika Tapalla (Tapalla) from ABC 5 and Perillo from GMA 7. An inventory of the seized items was then prepared in the presence of appellant and the witnesses. Photographs were taken during the marking and inventory. No prosecutor from the Department of Justice (DOJ) was available to witness the inventory that night.<sup>19</sup>

On June 16, 2010, around 1 o'clock in the morning, after the marking and inventory, SPO2 Taldo and PO3 Perida turned over the seized items to the investigator SPO3 Caluag. Upon concluding his investigation in half an hour, SPO3 Caluag turned over the two (2) boxes containing two (2) bricks each of suspected cocaine to PCI Paul Ed C. Ortiz (PCI Ortiz)<sup>20</sup> of the PNP Crime Laboratory. All these happened at the place of arrest. Subsequently, at 2:55 in the morning, PCI Ortiz turned over the suspected cocaine to PSI Ballesteros of the PNP Crime Laboratory for testing. Per Chemistry Report No. D-43-10, all four (4) bricks tested positive for cocaine.<sup>21</sup>

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<sup>14</sup> *Id.* at 8.

<sup>15</sup> *Id.*

<sup>16</sup> *CA rollo*, p. 23.

<sup>17</sup> *Id.*

<sup>18</sup> *Rollo*, p. 9.

<sup>19</sup> *Id.* at 9-10.

<sup>20</sup> Also appears as Major Ortiz in the records.

<sup>21</sup> *Rollo*, p. 10.

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### Version of the Defense

Appellant denied the charges.<sup>22</sup>

On June 15, 2010, around 8 o'clock in the evening, he was with his daughter Carla at SM Marikina. While they were about to leave the parking area, he noticed three (3) manned vehicles parked near his car but didn't think much of it. When they got out of the parking area, however, the three (3) vehicles he saw earlier started following them. Worried, he dropped off his daughter at the corner of Ligaya and Marcos Highway and proceeded to Ortigas.<sup>23</sup>

The three (3) vehicles continued following him, thus, he decided not to pass through the flyover and go to the well-lighted area of Tiendesitas instead. Suddenly, one of the vehicles cut his path and blocked his way. The passengers of the three (3) vehicles alighted, poked their guns at him, and dragged him on board a grey Mitsubishi Lancer. From inside, he saw that some of those who were following him had opened his vehicle and were searching it. He also noticed that other personalities arrived at the scene, including some members of the media. After some time, he was dragged out of the Mitsubishi Lancer and brought in front of his vehicle where he saw various items placed on top of the hood. He denied ownership of said items.<sup>24</sup>

### Ruling of the Trial Court

By Decision<sup>25</sup> dated December 7, 2015, the Regional Trial Court, Branch 151, Pasig City rendered a verdict of conviction, thus:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1 Re: Criminal Case No. 17173-D, this Court finds the accused, **ALEXANDER ESTABILLO y PALARA, GUILTY** beyond reasonable doubt of the crime of violation of Section 5, Article II of Republic Act No. 9165, and accordingly, hereby sentences him to suffer the penalty of **LIFE IMPRISONMENT** and pay a **fine in the amount of Ten Million pesos (P10,000,000.00)**.

2 Re: Criminal Case No. 17172-D, this Court finds the accused, **ALEXANDER ESTABILLO y PALARA, GUILTY** beyond reasonable doubt of the crime of violation of Section 11, Article II of Republic Act No. 9165, and accordingly, hereby sentences him to suffer the penalty of **LIFE IMPRISONMENT** and pay a **fine in the amount of Ten Million pesos (P10,000,000.00)**.

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

<sup>23</sup> *Id.* at 11.

<sup>24</sup> *Id.* at 11-12.

<sup>25</sup> *CA rollo*, p. 126.

The Officer-In-Charge/Branch Clerk of Court is ordered to transfer the possession and custody of the dangerous drugs subject of these cases to the Philippine Drug Enforcement Agency for its disposal in accordance with law.

**SO ORDERED.**

It held that the elements of illegal sale of dangerous drugs were all present, considering that appellant was arrested following a buy bust operation. Too, the arresting officers recovered two (2) bricks of cocaine at the back of appellant's driver seat following his lawful arrest. Thus, appellant was also convicted of illegal possession of dangerous drugs. The trial court further held that the prosecution sufficiently established all four links in the chain of custody.<sup>26</sup>

The trial court denied reconsideration on February 4, 2016.<sup>27</sup>

**Proceedings Before the Court of Appeals**

On appeal,<sup>28</sup> appellant faulted the trial court for rendering a verdict of conviction. He argued:

**First.** He was illegally arrested. The arresting officers did not have probable cause to arrest him since at that time, they were still unaware of whether the bricks inside the Otto shoebox truly contained cocaine. None of the arresting officers had personal knowledge of the actual contents of the shoebox.<sup>29</sup>

**Second.** The arresting officers did not have reason to arrest appellant other than SPO2 Taldo's call to SPO3 Ngo. Said call was insufficient to establish probable cause for his warrantless arrest.<sup>30</sup>

**Third.** The prosecution failed to show that he dusted positive for ultraviolet powder after he allegedly took possession of the buy bust money.<sup>31</sup>

**Fourth.** GMA 7 reporter Perillo denied seeing any actual cocaine during his coverage of the incident.<sup>32</sup>

**Fifth.** There was no DOJ representative present during the inventory and photograph.<sup>33</sup>

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<sup>26</sup> *Id.* at 161-170.

<sup>27</sup> *Id.* at 172.

<sup>28</sup> *Id.* at 35.

<sup>29</sup> *Id.* at 43-46.

<sup>30</sup> *Id.* at 51-53.

<sup>31</sup> *Id.* at 50-51.

<sup>32</sup> *Id.* at 46-50.

<sup>33</sup> *Id.* at 58-59.

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**Sixth.** There is doubt on whether items examined by PSI Ballesteros were the same items seized from appellant. For records show that there were two (2) requests for laboratory examination made concerning the same items allegedly seized from him. On the one hand, PSI Ballesteros testified that PCI Ortiz delivered the seized items to him. On the other hand, one of the requests for laboratory examination stated that the seized items were delivered by SPO3 Caluag.<sup>34</sup>

**Seventh.** The prosecution failed to adduce documentary proof of compliance with Section 21 of RA 9165. At any rate, PCI Ortiz did not testify during the trial, breaking the link between the investigator and the forensic chemist.<sup>35</sup>

**Finally.** the trial court did not perform an ocular inspection of the seized items within 72 hours as required under Section 21 of RA 9165.<sup>36</sup>

The Office of the Solicitor General (OSG), on the other hand, defended the verdict of conviction.<sup>37</sup> It maintained that all the elements of illegal sale and possession of dangerous drugs were present.<sup>38</sup> It also refuted appellant's arguments, thus:

**First.** The arresting officers had every right to believe the four (4) bricks recovered from appellant contained cocaine, considering that they earlier performed a test buy which yielded positive results. More, there was already a meeting between the minds of appellant and SPO2 Taldo concerning the sale of four 4 kilos of cocaine; the arresting officers did not have reason to doubt that appellant would not uphold his end of the bargain. At any rate, an on the spot laboratory examination of the drug items is ludicrous and unrealistic.<sup>39</sup>

**Second.** The call to SPO3 Ngo was the buy bust team's pre-determined signal for the consummation of the sale. Thus, when SPO2 Taldo dialed SPO3 Ngo's number, the buy bust team had probable cause to believe that the sale of cocaine had in fact been consummated, and that appellant committed a crime.<sup>40</sup>

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<sup>34</sup> *Id.* at 54-56.

<sup>35</sup> *Id.* at 55-58.

<sup>36</sup> *Id.* at 50.

<sup>37</sup> *Id.* at 194.

<sup>38</sup> *Id.* at 203-208.

<sup>39</sup> *Id.* at 208-209.

<sup>40</sup> *Id.* at 210.

**Third.** The prosecution's failure to submit the results of the ultraviolet test did not weaken the case of the prosecution. For the use of ultraviolet powder is not even required in buy bust operations.<sup>41</sup>

**Fourth.** Whether Perillo actually saw any off-white powdered substance is immaterial. He only had to witness and identify the items seized from appellant. It is up to the forensic chemist to determine whether these items are positive for drugs after performing qualitative examinations thereon.<sup>42</sup>

**Fifth.** The arresting officers sufficiently explained the absence of a representative from the DOJ during the buy bust operation. Despite earnest efforts from the arresting officers to secure the presence of such witness, they failed because there was no duty prosecutor that night.<sup>43</sup>

**Sixth.** PSI Ballesteros explained the supposed double request for laboratory examination. He testified that it was PCI Ortiz who delivered the seized items to him while the results were to be released to SPO3 Caluag as the actual requesting party.<sup>44</sup>

**Seventh.** The prosecution established that the arresting officers complied with the chain of custody rule, hence, the integrity and evidentiary value of the seized items were duly preserved. Documentary evidence is not necessary to prove transfers of custody; testimonial evidence would suffice.<sup>45</sup>

**Finally.** The trial court's failure to perform an ocular inspection did not weaken the case of the prosecution. For the sole purpose of an ocular inspection is to allow the presentation of representative samples during the trial rather than the entirety of the items seized, allowing the immediate destruction of the contraband. Thus, ocular inspection is unnecessary in the present case where the entire bricks of cocaine were presented during the trial, not just their representative samples.<sup>46</sup>

Subsequently, appellant filed his supplemental brief,<sup>47</sup> arguing that the buy bust operation could not be considered valid since the prosecution did not offer the testimony of any of the insulating witnesses during the trial. He

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<sup>41</sup> *Id.* at 215.

<sup>42</sup> *Id.* at 209.

<sup>43</sup> *Id.* at 216.

<sup>44</sup> *Id.* at 214.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 216.

<sup>47</sup> *Id.* at 235.



insisted on his innocence, citing the arresting officers non-compliance with Section 21, RA 9165 and *People v. Lim*<sup>48</sup> as bases.

### The Ruling of the Court of Appeals

Under Decision<sup>49</sup> dated April 26, 2019, the Court of Appeals affirmed. For one, appellant was validly arrested sans judicial warrant as he was caught in *flagrante delicto* selling two (2) bricks of cocaine. The consequent search of his vehicle which yielded two (2) more bricks of cocaine was therefore legal.<sup>50</sup> For another, the prosecution established the elements of illegal sale and possession of dangerous drugs were duly established through an unbroken chain of custody over the seized items.<sup>51</sup>

The Court of Appeals denied reconsideration on October 9, 2019.<sup>52</sup>

### Present Appeal

Appellant now seeks the reversal of the verdict of conviction anew. By Resolution dated February 3, 2021, the Court directed the parties to file their supplemental briefs if they so desire. On even date, appellant filed his supplemental brief<sup>53</sup> which essentially reiterates his arguments before the Court of Appeals. Meanwhile, the OSG manifested that it will no longer be submitting its supplemental brief.

### Ruling

We affirm.

### Appellant is barred from questioning the validity of his arrest

Section 5, Rule 113 of the Rules of Criminal Procedure enumerates the instances when a warrantless is lawful, *viz.*:

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

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<sup>48</sup> G.R. No. 231989, September 4, 2018.

<sup>49</sup> Penned by Associate Justice Maria Filomena D. Singh and concurred in by Associate Justices Japar B. Dimaampao and Manuel M. Barrios; *rollo*, p. 3.

<sup>50</sup> *Id.* at 15-19.

<sup>51</sup> *Id.* at 19-29.

<sup>52</sup> Penned by Associate Justice Maria Filomena D. Singh and concurred in by Associate Justices Japar B. Dimaampao and Manuel M. Barrios; *CA rollo*, p. 321.

<sup>53</sup> *Rollo*, p. 39

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

x x x x

Here, appellant was arrested in *flagrante delicto* on June 15, 2010, following a buy-bust operation. As borne in the records, poseur-buyer SPO2 Leonardo Taldo paid appellant six (6) ₱500.00 bills placed inside a bag of boodle money, all dusted with ultraviolet powder, in exchange for two (2) bricks of suspected cocaine placed inside a maroon-brown Otto shoebox. Once the transaction got consummated, SPO2 Taldo performed the buy-bust team's pre-arranged signal by calling the phone of SPO3 Ngo. Subsequently, the rest of the buy-bust team rushed to arrest appellant and performed a search on his vehicle, resulting in the seizure of yet another shoebox containing two (2) more bricks of suspected cocaine.<sup>54</sup>

Appellant nevertheless assails the validity of his warrantless arrest, arguing on appeal that he could not have been caught in *flagrante delicto* selling dangerous drugs since the arresting officers had no personal knowledge on whether the four (4) bricks allegedly seized from him were actually cocaine. Too, SPO2 Taldo's call to SPO3 Ngo was not sufficient basis for probable cause that he had just committed a crime.<sup>55</sup>

We are not persuaded.

Objections against the lawfulness of an arrest which are not raised through a motion to quash before the accused enters his or her plea are deemed waived, for the voluntary submission of an accused to the jurisdiction of the court and his or her active participation during the trial cures any defect or irregularity that may have attended an arrest.<sup>56</sup>

Here, appellant questioned the validity of his arrest only on appeal before the Court of Appeals. By that time, he was already estopped from raising any objection against the legality of his warrantless arrest. To be sure, appellant willingly stipulated during the pre-trial that the trial court had jurisdiction over his person.<sup>57</sup> He is therefore barred from claiming otherwise.

**All the elements illegal sale and possession of dangerous drugs were present**

Appellant is charged with unauthorized sale and possession of dangerous drugs allegedly committed on June 15, 2010. The applicable law

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<sup>54</sup> *Id.* at 8-9.

<sup>55</sup> *CA rollo*, pp. 43-53.

<sup>56</sup> *Veridiano v. People*, 810 Phil. 642, 654 (2017).

<sup>57</sup> *CA rollo*, p. 64.

therefore is RA 9165 before its amendment in 2014. These offenses are defined and penalized under Sections 5 and 11 of the same law, thus:

*SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

x x x x

*SEC. 11. Possession of Dangerous Drugs.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

(4) 10 grams or more of cocaine or cocaine hydrochloride;

All the elements of both offenses are present here.

**a. The elements of illegal sale of dangerous drugs are present**

To secure a conviction for illegal sale of dangerous drugs, the prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>58</sup>

As the Court of Appeals aptly noted, SPO2 Taldo, the poseur-buyer, gave a clear and accurate account of the transaction that occurred between him and appellant on June 15, 2010, *viz.*:<sup>59</sup>

Prosecutor Porte:

Q: When you were on board the Mitsubishi Strada, what happened next?

A: He asked me where the money is.

Q: What was your reaction then?

A: I told him I want to see first the cocaine.

<sup>58</sup> *People v. Hilario*, 823 Phil. 580, 594 (2018).

<sup>59</sup> TSN, SPO1 Leonardo Taldo, April 30 2012, pp.14-15 as cited in the Decision dated April 26, 2019 of the Court of Appeals in CA-G.R. CR-CH No. 08244; See *rollo*, pp. 17-18.

Q: What was the reaction of alias Alex?

A: He picked-up a brown shoe box with marking Otto, and he handed it to me.

Q: What did you do with the box?

A: I opened the box.

Q: After you opened the box, did you see anything inside the box?

A: I saw the 2 bricks of suspected cocaine.

Q: After you saw the bricks of suspected cocaine, what was your reaction?

A: I gave him the boodle money.

Q: Was alias Alex able to receive the boodle money?

A: Yes, sir.

Based on the testimonies of the prosecution witnesses, appellant was the seller and SPO2 Taldo was the buyer in the illegal sale of dangerous drugs subject of this case. SPO2 Taldo was supposed to purchase four (4) kilos of cocaine but only two (2) bricks were delivered to him before the buy bust team arrested appellant. In exchange for these two (2) bricks of cocaine, SPO2 Taldo handed appellant a bag containing six (6) ₱500 bills and 60 bundles of boodle money dusted with ultraviolet powder as payment. The sale of illegal drugs was therefore consummated.

Appellant argues though that if there was indeed a sale and he truly received payment from SPO2 Taldo, then he should have tested positive for ultraviolet powder. The prosecution, however, did not offer in evidence any proof of such positive result.<sup>60</sup>

The argument utterly lacks merit.

The arresting officer's failure to test appellant for ultraviolet powder is not fatal to the prosecution's case. For the law does not require buy-bust money and boodle money used in anti-drug operations to be dusted with ultraviolet powder for purposes of proving delivery of payment. This second element may be established through other means, such as the testimony of the poseur-buyer himself, as here. To reiterate, SPO2 Taldo categorically testified that he had delivered payment to appellant. Both the trial court and the Court of Appeals found this testimony to be credible. The Court sees no cogent reason to depart from this uniform factual findings of the courts below.

**b. The elements of illegal possession of dangerous drugs are present**

In a prosecution for illegal possession of dangerous drugs, it must be shown that (1) the accused was in possession of an item or an object identified

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<sup>60</sup> CA *rollo*, pp. 50-51.

to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused was freely and consciously aware of being in possession of the drug.<sup>61</sup>

“Possession” under the contemplation of Section 11, RA 9165 may either be actual or constructive. *People v. Santos*,<sup>62</sup> citing *People v. Lagman*,<sup>63</sup> elucidates:

x x x Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate possession or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found. Exclusive possession or control is not necessary. The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another.

Here, appellant had possession of the two (2) bricks of cocaine recovered from behind the driver seat of his vehicle upon his arrest. Though he did not have immediate physical possession of these items, he had constructive possession thereof. Only he had dominion of these items. The two (2) bricks of cocaine were under his control and disposal.

Appellant cannot deny knowledge of the two (2) additional bricks of cocaine inside his car. Obviously, he was about to sell them to SPO2 Taldo to complete the latter’s order of four (4) kilos of cocaine. But before he could physically deliver the rest of his merchandise to SPO2 Taldo, the buy bust team moved in and effected his arrest.

All told, all the elements of illegal sale and possession of dangerous drugs are present.

**The prosecution sufficiently  
established all the links in the chain  
of custody**

Finally, appellant asserts that the prosecution failed to establish an unbroken chain of custody of the seized items. Otherwise stated, even assuming the elements of illegal sale and possession of dangerous drugs were duly established, the prosecution nevertheless failed to prove that the items supposedly seized from him were the same ones offered in evidence during the trial.

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<sup>61</sup> *People v. Hilario*, supra note 58.

<sup>62</sup> 823 Phil. 1162, 1176-1177 (2018).

<sup>63</sup> 593 Phil. 617, 625 (2008).

We resolve.

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution, therefore, is tasked to establish that the substance illegally possessed by the accused is the same substance presented in court.<sup>64</sup>

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody:<sup>65</sup> *first*, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.<sup>66</sup>

Section 21 of RA 9165 further prescribes the standard in preserving the *corpus delicti* in illegal drug cases, *viz*:

SECTION 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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

<sup>64</sup> *Jacson v. People*, G.R. No. 199644, June 19, 2019.

<sup>65</sup> As defined in Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002:

x x x x

b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

x x x x

<sup>66</sup> *People v. Dahil*, 750 Phil. 212, 231 (2015).

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;


(4) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of 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 DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: *Provided*, That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: *Provided, further*, That a representative sample, duly weighed and recorded is retained;

x x x x

More, the Implementing Rules and Regulations of RA 9165 ordains:

Section 21. (a) The apprehending officer/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: *Provided*, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; *Provided, further*, that non-compliance with 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 of and custody over said items. (emphases added)

The Court finds that the prosecution sufficiently established compliance with the afore-cited rules.



### a. First Link

The first link of the chain of custody is the seizure and marking of the illegal drug recovered from the accused, as well as compliance with the physical inventory and photograph requirements.<sup>67</sup>

Marking is the starting point in the custodial link. It serves to separate the marked evidence from the *corpus* of all other similar or related evidence from the time they are seized from the accused until they are disposed, thus, preventing switching, planting or contamination of evidence. Marking though should be done in the presence of the apprehended violator immediately upon confiscation to truly ensure that they are the same items which enter the chain of custody.<sup>68</sup>

After marking the seized items, the apprehending team shall conduct a physical inventory and photograph the seized items in the presence of the accused or his representative or counsel, a representative from the media and the DOJ, and any elected public official.<sup>69</sup> The purpose of the law in having these witnesses is to prevent or insulate against and deter possible planting of evidence.<sup>70</sup> Failure to comply with this three (3) witness rule, however, does not *ipso facto* invalidate or render void the seizure and custody over the items as long as the prosecution is able to show that (a) there is justifiable ground for noncompliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.<sup>71</sup>

Here, SPO2 Taldo immediately marked the two (2) bricks of cocaine in the Otto shoebox he received from appellant with LPP 06152315 2010 and LPP1 06152315 2010 together with his signature at the place of operation.<sup>72</sup> Meanwhile, PO3 Perida recovered a yellow Mario D'Boro box containing two (2) more bricks of suspected cocaine from behind the driver seat which he, too, immediately marked LPP2 06152315 2010 and LPP3 06152315 2010 with his signature.<sup>73</sup> The marking was done in the presence of Barangay Kagawad Santos and two (2) representatives from the media, Tapalla from ABC 5 and Perillo from GMA 7.<sup>74</sup> An inventory of the seized items was then prepared in the presence of appellant and the witnesses. Photographs were taken during the marking and inventory.<sup>75</sup>

Dissatisfied, appellant bewails the absence of a representative from the DOJ during the operation. He claims that the absence of a DOJ representative during inventory is ground for acquittal. He, too, relies on the testimony of Perillo wherein the latter denied seeing white powdered substance, albeit he

<sup>67</sup> *People v. Omamos*, G.R. No. 223036, July 10, 2019.

<sup>68</sup> *Id.*

<sup>69</sup> Section 21 (1), RA 9165.

<sup>70</sup> *People v. Tanes*, G.R. No. 240596, April 3, 2019.

<sup>71</sup> Section 21(a), IRR of RA 9165.

<sup>72</sup> *CA rollo*, p. 23.

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

<sup>74</sup> *Rollo*, pp. 9-10.

<sup>75</sup> *Id.*



saw the bricks wrapped in masking tape which were allegedly seized from appellant, rendering the inventory questionable.<sup>76</sup>

We are not persuaded.

**For one**, the arresting officers offered adequate explanation for the absence of a DOJ representative during the inventory. As the Court of Appeals keenly observed, the arresting officers exerted earnest effort to secure a witness from the DOJ but to no avail:

x x x While there was no DOJ representative to witness the marking and inventory, SPO1 Taldo, PO3 Perida and SPO3 Ngo explained that, although they exerted efforts to secure the presence of a representative from the DOJ, there was no duty prosecutor at the time when they conducted the buy-bust operation. The Court notes that it was close to midnight when the operation took place.

Verily, there was simply no prosecutor from the DOJ who was available to witness the inventory at that very late hour in the evening. We also consider the immediacy of performing the marking and inventory of seized items which ought not be delayed. In *People v. Maralit*,<sup>77</sup> the Court took these twin circumstances into consideration in affirming the verdict of conviction against therein appellant despite the absence of a DOJ representative during the marking and inventory, viz.:

**Here, it is evident from the records that the marking and inventory of the two (2) bricks of marijuana were immediately conducted at the place of the arrest**, soon after these items were taken from Maralit. Between Maralit's arrest and the marking of the items, only ten (10) minutes passed, which the prosecution adequately justified as the time spent by the apprehending team waiting for the arrival of the witnesses to the marking and inventory.

Furthermore, during the marking and inventory of the seized items, there were two (2) barangay officials and one (1) media representative present. While there was no DOJ representative to witness the marking and inventory, **IO1 Esmin and PO2 Caalim explained that they were no longer able to contact a representative from the DOJ because by the time they were finished with the entrapment operation, it was beyond office hours.**

**The Court does not lose sight of the fact that under various field conditions, compliance with the requirements under Section 21 of R.A. No. 9165 may not always be possible.** Thus, while the presence of all these witnesses are ordinarily required, non-compliance is excusable when the integrity and the evidentiary value of the seized items were properly preserved. There should also be proper justification for the arresting

<sup>76</sup> CA rollo, pp. 46-59.

<sup>77</sup> 838 Phil. 191, 208-209 (2018).

officers' failure to comply with the procedure under Section 21 of R.A. No. 9165.

Considering that the police officers explained the absence of the *DOJ* representative, coupled with the fact that they endeavored to comply with the mandatory procedure by securing the presence of elected officials and a representative from the media, their failure to strictly observe Section 21 of R.A. No. 9165 is not fatal to the case. **The integrity and evidentiary value of the seized evidence were nonetheless preserved because there were other witnesses to the marking and inventory of the seized bricks of marijuana. Two (2) barangay officials and a representative from the media were present during this stage, photographs were taken, and an inventory signed by these witnesses was prepared.** Furthermore, while the inventory does not bear the signature of Maralit, the photographs show that Maralit was present during the marking and inventory of the seized items. (emphases added)

Clearly, the justifications offered in *Maralit* closely correspond to the explanations given by the arresting officers here. Thus, we are compelled to observe the same degree of reasonableness here.

At any rate, the Court keenly notes that as in *Maralit*, the arresting officers here were likewise able to preserve the integrity and evidentiary value of the seized items which were marked, inventoried, and photographed in front of an elected official and two (2) media representatives. To be clear though, a media representative is no substitute for a DOJ representative under RA 9165 prior to its amendment. However, the arresting officers' decision to invite additional witnesses than required is cogent proof of their good faith, if not, earnest efforts to comply with the witness requirement under Section 21, RA 9165, and more important, to ensure transparency and dispel any kind of suspicion on the legitimacy of the operation.

**For another**, it was not Perillo's job as insulating witness to look for white powdery substance which could possibly be dangerous drugs. For the insulating witnesses do **not** guarantee that the items seized from an accused are indeed dangerous drugs. They only needed to confirm that the items seized from appellant as appearing in the inventory, regardless of whether they dangerous drugs or simply mundane things, are the same items offered in evidence before the trial court.

As the Court of Appeals correctly held, therefore, the first link in the chain was duly established.

#### **b. Second Link**

The second link pertains to the turnover of the illegal drug seized by the apprehending officer to the investigating officer. This is a necessary step in the chain of custody because it will be the investigating officer who shall

conduct the proper investigation and prepare the necessary documents for the developing criminal case.<sup>78</sup>

Here, SPO2 Taldo and PO3 Perida turned over the seized items to SPO3 Caluag, the designated investigator for the case. This was established through the testimonies of the prosecution witnesses as well as the *Turn-Over of Confiscated/Seized Evidence*.<sup>79</sup>

At any rate, appellant did not raise any specific argument against the second link which is, therefore, deemed proved.

### c. Third Link

The third link is the turnover of the seized drugs by the investigating officer to the forensic chemist for examination.

Records show that on June 16, 2010, at 1:30 in the morning, SPO3 Caluag turned over the seized items to PCI Ortiz of the PNP Crime Laboratory who was present at the operation. Thereafter, PSI Ballesteros received the seized items from PCI Ortiz for laboratory examination at 2:55 that same morning. Per Chemistry Report No. D-43-10, all four (4) bricks tested positive for cocaine.

Appellant claims, however, that the third link was not sufficiently established considering that the prosecution did not present PCI Ortiz as witness. Too, PSI Ballesteros received two (2) requests for laboratory examination, one each from SPO3 Caluag and PCI Ortiz.

The arguments fail to convince.

The prosecution's failure to present the testimony of PCI Ortiz did not diminish the integrity and evidentiary value of the seized items. To be sure, the Court is not inflexible in its treatment of drug cases. As held in *Malillin v. People*.<sup>80</sup>

While testimony about a perfect chain is not always the standard because it is almost always impossible to obtain, an unbroken chain of custody becomes indispensable and essential when the item of real evidence is not distinctive and is not readily identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is susceptible to alteration, tampering, contamination and even substitution and exchange. **In other words, the exhibit's level of susceptibility to fungibility, alteration or tampering without regard to whether the same is advertent or otherwise not dictates the level of strictness in the application of the chain of custody rule.**

<sup>78</sup> *People v. Hementiza*, 807 Phil. 1017, 1026 (2017).

<sup>79</sup> *Rollo*, p. 25.

<sup>80</sup> 576 Phil. 576, 587-588 (2008).

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

Indeed, strict adherence to Section 21 is required where the quantity of illegal drugs seized is miniscule, since it is highly susceptible to planting, tampering or alteration of evidence.<sup>81</sup> But this is not the case here where appellant was caught with four (4) bricks of cocaine weighing about one (1) kilo each.

What makes the seized items here even more peculiar was that they were wrapped in masking tape and distinctly marked during the operation with LPP 06152315 2010, LPP1 06152315 2010, LPP2 06152315 2010 and LPP3 06152315 2010 together with the signature of the arresting officers. Photos of these four (4) bricks were also taken, allowing confirmation on whether the same bricks of cocaine seized from appellant landed on the hands of PSI Ballesteros. This would not have been possible had the case involved miniscule amounts.

In any event, the presumption of regularity in the performance of official functions operates in favor of the arresting officers.<sup>82</sup> Unless there is clear and convincing evidence that the police officers were inspired by any improper motive or did not properly perform their duty, their testimonies on the operation deserve full faith and credit. Thus, unless the presumption is rebutted, it becomes conclusive.<sup>83</sup>

Here, the arresting officers were not impelled by any improper motive to perform the buy-bust and arrest appellant other than their genuine desire to properly perform their functions. In fact, they did not hastily act on the report from their confidential informant and conducted a test buy to verify the information they received. When it yielded positive results, they immediately hatched the buy-bust operation. There were no serious lapses during its conduct. At most, no DOJ representative was present during the inventory but even this was justified. The presumption of regularity, should therefore be upheld to fill the supposed gap in the chain of custody.

<sup>81</sup> *People v. Sali*, G.R. No. 236596 (Resolution), [January 29, 2020].

<sup>82</sup> Section 3(m), Rule 131, Rules of Court.

<sup>83</sup> *People v. Cabiles*, 810 Phil. 969, 975-976 (2017).

As for the double request for laboratory examination, this too was adequately explained. The request from PCI Ortiz was due to the fact that he was the one who personally delivered the seized items to PSI Ballesteros. But PCI Ortiz also worked at the PNP Crime Laboratory and was actually PSI Ballesteros' superior. Though present at the scene, PCI Ortiz was not part of the buy bust team, the actual party who would be interested in the results of the laboratory examination for purposes of filing a criminal case against appellant. Thus, SPO3 Caluag prepared his own request for laboratory examination so that their station would directly receive the results of said examination within 24 hours as required under Section 21 of RA 9165.

Verily, the third link was also established.

#### **d. Fourth Link**

The final link is the turnover and submission of the seized items by the forensic chemist to the court.

Here, PSI Ballesteros brought the seized items to the trial court during the pre-trial conference and hearing on appellant's petition for bail. Said items were marked as exhibits in open court in the presence of appellant himself and counsel.<sup>84</sup> PSI Ballesteros further testified during the trial.<sup>85</sup>

Prosecutor Manguiat-Ngaosi:

Q: I have here two (2) shoeboxes one yellow and one maroon. Can you please go over these including the contents of these boxes and tell us what are the relation of these, if any, to the exhibits presented to you that you earlier mentioned?

A: These are the specimens submitted to me for examination, ma'am.

Q: Why do you know that these are the specimens submitted for examination?

A: I placed my own markings, ma'am.

Q: What are your markings placed on these exhibits, Mr. Witness?

A: For Box no. 1, I placed D-43-10E MAB, my initials, the date, June 16, 2010, and its contents D-43-10 A-2 and D-43-10 A-1, for the second box, I placed D-43-10 B, my initials, the date, June 16, 2010, and for its contents I placed D-43-10 B-2, D-43-10 B-1.

In fine, there is no doubt that the items seized from appellant and tested by PSI Ballesteros were the same items delivered to court for purposes of prosecuting appellant's case.

<sup>84</sup> *Rollo*, p. 28.

<sup>85</sup> TSN, PSI Mark Alain B. Ballesteros, April 7, 2011, pp. 14-15 as cited in the Decision dated April 26, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 08244, p. 27; see *id.* at 29.

Appellant, however, faults the trial court for failure to perform an ocular inspection within 72 hours from the filing of the Informations as required by Section 21(4) of RA 9165.

But the same does not, in any way, affect the integrity and evidentiary value of the seized items. To recall, Section 21(4) of RA 9165 states:

SECTION 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:

x x x x

(4) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and **through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of 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 DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: *Provided*, That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: *Provided, further*, **That a representative sample, duly weighed and recorded is retained**; (emphases added)

Clearly, the purpose of the provision is to allow the PDEA to destroy the seized drug items even before they are presented in court to reduce the risk of these items ending up back in the streets. Meanwhile, ocular inspection allows the trial court to personally see the seized items before they are destroyed by the PDEA. It ensures that the **representative sample** brought to court as proof of the *corpus delicti* actually came from the items seized from the accused.

Otherwise stated, Section 21(4) of RA 9165 bears upon the integrity and evidentiary value of representative samples only. Non-compliance with the provision would not affect the integrity and evidentiary value of the entirety of the seized items when said items themselves are presented in court, not just their representative samples, as here.

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Here, the prosecution offered in evidence not just mere representative samples of the four (4) bricks of cocaine seized from appellant but the four (4) bricks of cocaine themselves duly marked as Exhibits HH, II, KK and LL.<sup>86</sup> Surely, this is over-compliance with the chain of custody rule which allows mere representative samples to be offered in evidence during trial. Since the seized drug items were not destroyed, the integrity and evidentiary value of the seized items were further preserved.

The Court recognizes though that the PDEA's failure to destroy the (4) bricks of cocaine beforehand nevertheless constituted a breach of Section 21(4), RA 9165. To repeat, however, this would not affect the integrity and evidentiary value of the entirety of the seized items but could, at most, be ground for possible disciplinary action.

All told, the prosecution has successfully established the chain of custody of the seized items. Consequently, the integrity and evidentiary value of these seized items are deemed preserved. The *corpus delicti* of the crimes charged against appellant were therefore established. As such, there is no reason to depart from the assailed verdicts of conviction.

**ACCORDINGLY**, the appeal is **DISMISSED**. The Decision dated April 26, 2019 and Resolution dated October 9, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 08244 are **AFFIRMED**.

Appellant **SPO1 ALEXANDER ESTABILLO y PALARA** is found **GUILTY** of violation of Sections 5 and 11 of Republic Act No. 9165 and sentenced to **LIFE IMPRISONMENT** and a **FINE** of **₱10,000,000.00** for each offense.


**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

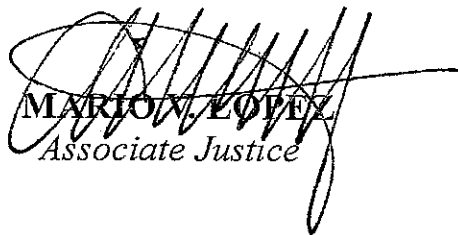
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<sup>86</sup> *Id.* at 28.

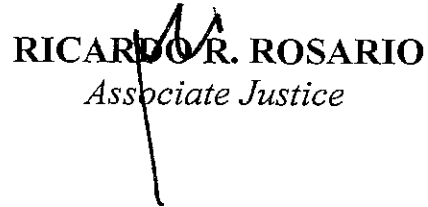
**WE CONCUR:**



**ESTELA M. PERLAS-BERNABE**  
*Chairperson*



**MARTON LOPEZ**  
*Associate Justice*



**RICARDO R. ROSARIO**  
*Associate Justice*



**JHOSEP Y. LOPEZ**  
*Associate Justice*

**ATTESTATION**

I attest that the conclusion 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.



**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 Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ALEXANDER G. GESMUNDO**  
*Chief Justice*

