



Republic of the Philippines  
Supreme Court  
Baguio City

THIRD DIVISION

PEOPLE OF THE G.R. No. 276735  
PHILIPPINES,

Plaintiff-appellee,

- versus -

Present:  
CAGUIOA, J., Chairperson,  
INTING,\*  
GAERLAN,  
DIMAAMPAO, and  
SINGH, JJ.

JOSEPH ATANACIO y  
PAGUNALING and JON  
MAGNO y LAGAMO,  
Accused-appellants.

Promulgated:

APR 02 2025

MICROSOFT

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DECISION

SINGH, J.:

Before the Court is an ordinary appeal under Rule 124, Section 13 of the Rules of Court assailing the Decision,<sup>1</sup> dated March 14, 2024, of the Court of Appeals (CA) in CA G.R. CEB CR-HC No. 04514. The CA affirmed the Joint Decision,<sup>2</sup> dated December 12, 2022, of Branch 25, Regional Trial Court, Iloilo City (RTC), in Criminal Case Nos. 20-85657 and 20-85658, convicting accused-appellants Joseph Atanacio y Pagunaling (**Atanacio**) and

\* On official business

<sup>1</sup> *Rollo*, pp. 13–36. Penned Associate Justice Jacinto G. Fajardo, Jr. and concurred in by Associate Justices Marilyn B. Lagura-Yap and Rogelio G. Largo of the Nineteenth Division, Court of Appeals, Cebu City.

<sup>2</sup> *Id.* at 38–50. Penned by Judge Rose Edith G. Togonon.

Jon Magno y Lagamo (**Magno**) of violating Republic Act No. 9165,<sup>3</sup> or the Comprehensive Dangerous Drugs Act of 2002.

### *The Facts*

This case stemmed from two Informations filed before the RTC, charging Atanacio and Magno, of Violations of Section 5 (**Illegal Sale of Dangerous Drugs**) and Section 11 (**Illegal Possession of Dangerous Drugs**), Article II of Republic Act No. 9165.

In Criminal Case No. 20-85657, Atanacio and Magno were charged for violation of Article II, Section 5 of Republic Act No. 9165, allegedly committed as follows:

That on or about the [September 20, 2020], in the City of Iloilo, Philippines and within the jurisdiction of this Court, said accused, conspiring and confederating between themselves, working together and helping one another, with deliberate intent and without any justifiable motive, did then and there, wilfully, knowingly, unlawfully, and criminally sell, distribute and deliver to PAT Van Anvie F. Mendez, who acted as poseur buyer, one [] piece heat-sealed transparent plastic sachet containing 2.0105 grams of methamphetamine hydrochloride (*shabu*), a dangerous drugs [sic], in consideration of [PHP 17,200.00,] without the authority to sell and distribute the same; that the [17] pieces of [PHP] 1,000.00 bill[s] (boodle money) and two [] pieces of P[HP] 100.00 bill including the subscribed money with Serial Number SH440609, used as buy bust money were recovered from the accused Joseph Atanacio upon his arrest.

CONTRARY TO LAW.<sup>4</sup>

Additionally, in Criminal Case No. 20-85658, Atanacio was charged with violation of Article II, Section 11 of Republic Act No. 9165, allegedly committed in the following manner:

That on or about the [September 20, 2020] in the City of Iloilo, Philippines and within the jurisdiction of this Honorable Court, said accused, with deliberate intent and without any justifiable motive, did then and there, willfully, knowingly, unlawfully, and criminally have in his possession and control one [] piece heat-sealed transparent plastic sachets containing a total weight of 7.1275 grams of methamphetamine hydrochloride (*shabu*), a dangerous drug, without the authority under the law to possess or carry the same.

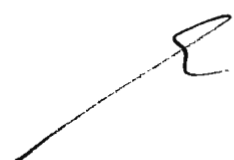
CONTRARY TO LAW.<sup>5</sup>

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<sup>3</sup> Approved on June 7, 2002.

<sup>4</sup> RTC records, p. 1.

<sup>5</sup> *Id.* at 2.



During the arraignment on October 9, 2020, Atanacio and Magno entered their respective pleas of “not guilty” to the charges against them.<sup>6</sup> On October 13, 2020, the pre-trial conference was conducted where the defense admitted: (1) the identities of Atanacio and Magno as the same persons charged in the Informations; (2) the expertise of the forensic chemist, Police Lieutenant Carmen Gabrielle H. Alianza (**P/Lt. Alianza**), in the field of forensic chemistry; and, (3) the presence of Atanacio and Magno during the inventory of the buy-bust items allegedly seized from them.<sup>7</sup>

After the termination of the pre-trial conference, trial on the merits ensued.

### *The Version of the Prosecution*

During the trial, the prosecution presented the following witnesses: (1) Patrolman Van Anvie Mendez (**Pat. Mendez**);<sup>8</sup> (2) Police Corporal Joseph Panolino (**P/Cpl. Panolino**);<sup>9</sup> (3) Police Senior Master Sergeant Jean Hiponia (**P/SMSgt. Hiponia**);<sup>10</sup> (4) Police Lieutenant Carmen Gabrielle H. Alianza (**P/Lt. Alianza**);<sup>11</sup> and (5) Police Staff Sergeant Ian Fritsch Gacutan (**P/SSgt. Gacutan**).<sup>12</sup>

Pat. Mendez testified that, on September 14, 2020, a confidential informant (**CI**) reported to him that both Atanacio and Magno were engaged in selling illegal drugs in the area of Barangay San Isidro, La Paz, Iloilo City (**Brgy. San Isidro**). Consequently, on September 14 and 20, 2020, Pat. Mendez, together with his back up and the CI, verified the information and observed that known drug violators were visiting the house of Atanacio and Magno, who lived in the same house, being in-laws.<sup>13</sup>

On September 20, 2020, at 11:00 a.m., P/Lt. Glen Soliman (**P/Lt. Soliman**), the buy-bust team leader, conducted a briefing for the buy-bust operation. Pat. Mendez was assigned as the poseur buyer and P/Cpl. Panolino as the back-up arresting officer.<sup>14</sup> The CI was present during the briefing and was tasked to introduce Pat. Mendez to Atanacio as a friend and buyer of *shabu*.<sup>15</sup> The buy-bust operation was planned to be conducted at the house of Atanacio and Magno.<sup>16</sup> After the briefing, the buy-bust team proceeded to the

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<sup>6</sup> *Id.* at 88.

<sup>7</sup> *Id.* at 92.

<sup>8</sup> *Id.* at 126.

<sup>9</sup> *Id.* at 167.

<sup>10</sup> *Id.* at 102.

<sup>11</sup> *Id.* at 114.

<sup>12</sup> *Id.* at 105.

<sup>13</sup> TSN, Pat. Van Anvie Mendez, January 19, 2021, pp. 5–7.

<sup>14</sup> *Id.* at 9–11.

<sup>15</sup> *Id.* at 13–14.

<sup>16</sup> *Id.* at 15.



house of Atanacio and Magno at Brgy. San Isidro, and arrived at around of 5:30 p.m. of the same day.<sup>17</sup>

Pat. Mendez saw Magno at the gate of their house, waiting for him and the CI, as the CI had already transacted with Atanacio before they went to the latter's house. The CI then asked Magno if Atanacio was inside. Magno entered the house and went to Atanacio, while Pat. Mendez and the CI stayed outside the gate.<sup>18</sup> Atanacio went out of the house and he asked if the money was complete. Pat. Mendez showed the money to Atanacio, who then instructed Magno to get the "*tema*" or *shabu* inside his room. When Magno returned, he handed the *shabu* to Atanacio, who in turn handed the same to Pat. Mendez. The latter gave the PHP 17,200.00 buy-bust money to Atanacio, who placed it inside his pocket together with the other sachet of *shabu*.<sup>19</sup>

Pat. Mendez then made the pre-arranged signal to inform the rest of the buy-bust team that the sale has been consummated by pulling down his face mask, and introduced himself as a police officer. Atanacio and Magno resisted the arrest, but they were subdued by Pat. Mendez with the assistance of P/Cpl. Panolino.<sup>20</sup> Pat. Mendez then informed Atanacio and Magno of their Miranda rights.<sup>21</sup>

Shortly thereafter, the other members of the buy-bust team, including P/Lt. Soliman and the insulating witnesses, Rommel Bebita of the GMA Super Radyo (**Bebita**) and Barangay Kagawad Michias Vergara (**Kgwd. Vergara**), arrived at the place of arrest. Pat. Mendez claimed that Bebita and Kgwd. Vergara were present during the buy-bust, and arrived three minutes after the arrest of Atanacio and Magno.<sup>22</sup> However, during cross-examination, Pat. Mendez stated that the insulating witnesses arrived around 10 minutes after the arrest.<sup>23</sup>

Pat. Mendez then searched Atanacio and Magno, and recovered the buy-bust money, another sachet of *shabu*, and PHP 1,000.00 cash from Atanacio's right pocket. Thereafter, Pat. Mendez marked, inventoried, and photographed the seized items in the presence Atanacio and Magno, as well as the insulating witnesses.<sup>24</sup>

P/Cpl. Panolino, on the other hand, testified that on September 20, 2020, he participated in the buy-bust operation against Atanacio and Magno

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<sup>17</sup> *Id.* at 15–16.

<sup>18</sup> *Id.* at 17–19.

<sup>19</sup> TSN, Pat. Van Anvie Mendez, March 4, 2021, pp. 7–10.

<sup>20</sup> *Id.* at 10–11.

<sup>21</sup> *Id.* at 12.

<sup>22</sup> *Id.* at 12–13.

<sup>23</sup> *Id.* at 39.

<sup>24</sup> *Id.* at 13–14.



at Brgy. San Isidro, as back-up officer. He was about 20 meters away from Pat. Mendez, who was transacting with Atanacio and Magno, while the insulating witnesses, Bebita and Kgwd. Vergara, were about 30 meters away from P/Cpl. Panolino. When Pat. Mendez removed his face mask, P/Cpl. Panolino ran towards him. Pat. Mendez held Atanacio, while he subdued Magno.<sup>25</sup>

At around 11:40 p.m. on September 20, 2020, Pat. Mendez turned over the seized dangerous drugs to the Regional Crime Laboratory Office 6, and these were received by P/Lt. Alianza.<sup>26</sup> As to the buy-bust money, the same was turned over by Pat. Mendez to P/SMSgt. Hiponia, the Non-Drug Evidence Custodian of the Regional Police Drug Enforcement Unit.<sup>27</sup>

P/Lt. Alianza conducted qualitative laboratory examinations on the specimens submitted by Pat. Mendez, which gave positive results for the presence of methamphetamine hydrochloride.<sup>28</sup> She then turned over the drug specimens to P/SSgt. Gacutan, the Exhibit Custodian of the Philippine National Police (PNP) Crime Laboratory.<sup>29</sup>

### *The Version of the Defense*

The defense presented Atanacio<sup>30</sup> and Magno,<sup>31</sup> as well as Bryan Ferrer (**Ferrer**)<sup>32</sup> and Princess Magno (**Princess**),<sup>33</sup> to refute the allegations in the Informations and rebut the testimonies of the prosecution witnesses.

Atanacio denied the charges against him. He testified that on September 20, 2020, at around 3:00 p.m., he was at the vulcanizing shop for the repair of the tire of his motorcycle. While waiting for his turn, a white van stopped in front of him and four men alighted and arrested him. When he asked what his fault was, he was told “Jo, just come with us.” Atanacio was surprised because his nickname was not “Jojo” but “Boyboy.” Jojo was his elder brother Jonathan Atanacio. The men forcibly boarded him inside the van, used his facemask to cover his eyes, and kept on asking him where he kept the *shabu*. The van travelled for a few meters, but abruptly stopped and returned to the vulcanizing shop. The men transferred Atanacio into a car, where the men told him to cooperate until they were able to arrest Jojo, who has just visited Atanacio’s house.<sup>34</sup> Atanacio then reluctantly accompanied the men to his

<sup>25</sup> TSN, P/Cpl. Joseph Panolino, March 29, 2022, pp. 3–5.

<sup>26</sup> See RTC records, p. 51.

<sup>27</sup> TSN, Pat. Van Anvie Mendez, March 4, 2021, p. 30.

<sup>28</sup> See TSN, P/Lt. Carmen Gabrielle Alianza, November 19, 2020, pp. 4–7; see RTC records, p. 56.

<sup>29</sup> See TSN, P/SSgt. Ian Fritsch Gacutan, November 5, 2020, pp. 5–6.

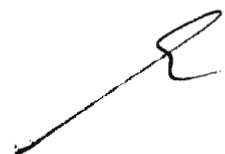
<sup>30</sup> RTC records, p. 180.

<sup>31</sup> *Id.* at 191.

<sup>32</sup> *Id.* at 187-A.

<sup>33</sup> *Id.* at 191.

<sup>34</sup> TSN, Joseph Atanacio, August 4, 2022, pp. 4–7.



house. When they arrived at Atanacio's house, some of the men entered Atanacio's room, while the two others went to the kitchen, where they interrogated and mauled Magno. Atanacio's wife and their three children were also inside the house. Atanacio asked Magno to tell the men where Jojo was. Magno then went with some of the men and pinpointed Jojo at the house of a certain "Tiroy."<sup>35</sup> Meanwhile, the other men who stayed with Atanacio in his house ordered him to show them where he hid the *shabu*, otherwise they would also bring his wife with them. Atanacio told the men that he was not engaged in illegal drugs.<sup>36</sup> When Magno and the other men arrived, Atanacio and Magno were brought to a nipa hut just outside their house, where one of the men inserted *shabu* in Atanacio's pocket. Atanacio removed the *shabu* from his pocket, but he was punched on the stomach and was told to choose between five sachets or one sachet. The men then put the sachet back in Atanacio's pocket. They waited for the media representative and the barangay official, who allegedly arrived at around 7:00 p.m.<sup>37</sup>

For his part, Magno narrated that on September 20, 2020, he was in their house cooking noodles, when two men suddenly entered and asked him if he was Jojo, to which he answered in the negative. The men then mauled him, while Atanacio was in handcuffs pleading with the men to stop hurting Magno. The latter then led the men to the house of Tiroy where Jojo was. The men arrested Tiroy and mauled Jojo. Later on, the men brought Magno back to their house and he was made to sit near Atanacio. One of the men put a piece of paper inside the pocket of Atanacio. They were then brought to the kitchen and waited for the witnesses, who arrived after about three hours. Thereafter, they were searched and brought to the police station.<sup>38</sup>

Ferrer, a worker at the Bro Vulcanizing Shop at Brgy. San Isidro, testified that on September 20, 2020, at around 3:30 p.m., he saw Atanacio pushing his motorcycle. He told Atanacio that he cannot accommodate him anymore as he had numerous work and customers. Atanacio stayed and rested on the hammock at the vacant lot beside the shop, about three to four meters away from him. An L-300 van suddenly stopped in front of Atanacio and he was accosted by four men who alighted from the van. They lifted Atanacio and boarded him in the van, which then sped away.<sup>39</sup>

Lastly, Princess, the wife of Atanacio, testified that on September 20, 2020, at around 3:00 p.m., she and her children were in the bedroom of their house. Meanwhile, her husband was outside fixing things, and Magno was in the nipa hut at the back of their house, when all of a sudden, police officers

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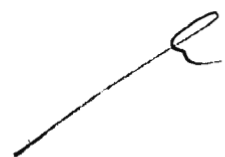
<sup>35</sup> *Id.* at 9–11.

<sup>36</sup> *Id.* at 11.

<sup>37</sup> *Id.* at 12–13.

<sup>38</sup> TSN, Jon Magno and Ma. Princess Magno, October 4, 2022, pp. 4–10.

<sup>39</sup> TSN, Bryan Ferrer, September 27, 2022, pp. 3–7.



arrived and shouted “raid.” When she looked through the window, she saw her husband already in handcuffs.<sup>40</sup>

### *The Ruling of the RTC*

After the trial, the RTC rendered a Joint Decision, dated December 12, 2022, finding Atanacio and Magno guilty beyond reasonable doubt of Violation of Article II, Sections 5 and 11 of Republic Act No. 9165. The dispositive portion of the RTC’s Joint Judgment states:

WHEREFORE, judgment is rendered as follows:

1) Finding accused **JOSEPH ATANACIO [Y] PAGUNALING AND JON MAGNO [Y] LAGAMO, GUILTY** beyond reasonable doubt for Violation of [Article II, Section 5] of Republic Act 9165, and sentences each of them to suffer a penalty of Life Imprisonment and a Fine amounting to [PHP 500,000.00] under Criminal Case Number 20-85657; and

2) Finding accused **JOSEPH ATANACIO [Y] PAGUNALING, GUILTY** beyond reasonable doubt for Violation of [Article II, Section 11, par. 2 (2)] of Republic Act 9165, and sentences him to suffer a penalty of Imprisonment ranging from [20] [y]ears and [one] [d]ay, as minimum, to [24] [y]ears of [i]mprisonment as [m]aximum and to [p]ay a [f]ine of [PHP 400,000.00] under Criminal Case Number 20-85658.

The sachets of *shabu* subject of these cases, and the genuine buy-bust money bills are confiscated and forfeited in favor of the Philippine Government. The Branch Clerk of Court is directed to turn over the dangerous drugs, to the PDEA Region VI for destruction and the genuine money to the Clerk of Court, RTC, Iloilo City, with proper receipt, for remittance to the National Treasury.

SO ORDERED.<sup>41</sup> (Emphasis in the original)


Atanacio and Magno appealed to the CA. They argued that the RTC gravely erred in convicting them of the crimes charged because the buy-bust operation was dubious.<sup>42</sup> Additionally, Atanacio and Magno alleged that the prosecution failed to prove compliance with the mandatory provisions of Article II, Section 21 of Republic Act No. 9165 and the rule on chain of custody.<sup>43</sup>

<sup>40</sup> TSN, Jon Magno and Ma. Princess Magno, October 4, 2022, pp. 29–32.

<sup>41</sup> *Rollo*, p. 50.

<sup>42</sup> CA *rollo*, pp. 52–58.

<sup>43</sup> *Id.* at 61–70.



### ***The Ruling of the CA***

On March 14, 2024, the CA rendered a Decision affirming Atanacio's and Magno's conviction by the RTC, thus:

**WHEREFORE**, the instant *Appeal* is **DENIED**. The assailed *Joint Decision* dated December 12, 2022 of Branch 25 of the Regional Trial Court, Iloilo City in Criminal Case Nos. 20-85657 and 20-85658, is **AFFIRMED**.

**SO ORDERED.**<sup>44</sup> (Emphasis in the original)

The CA ruled that the prosecution clearly showed the details of the alleged buy-bust operation, from the offer to purchase the dangerous drugs, the payment of the buy-bust money, and the delivery of the illegal drugs.<sup>45</sup>

Moreover, the CA affirmed that the prosecution was able to provide all the facts necessary to establish adherence to the chain of custody rule.<sup>46</sup> The CA opined that a perfect chain is not always the standard because it is almost always impossible to obtain.<sup>47</sup>

Aggrieved, Atanacio and Magno appealed the CA Decision before the Court, pursuant to Rule 124, Section 13 of the Rules of Court.

### ***The Issue***

Did the CA commit reversible error when it upheld Atanacio's and Magno's conviction of violation of Article II, Sections 5 and 11 of Republic Act No. 9165?

### ***The Ruling of the Court***

At the outset, the Court emphasizes that it is a well settled rule that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors.<sup>48</sup> The appeal confers the appellate court full jurisdiction over the case and renders such court competent to

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<sup>44</sup> *Rollo*, pp. 35–36.

<sup>45</sup> *Id.* at 28.

<sup>46</sup> *Id.* at 34.

<sup>47</sup> *Id.* at 35.

<sup>48</sup> *People v. Bernardo*, 890 Phil. 97, 110 (2020) [Per J. Perlas-Bernabe, Second Division].





examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>49</sup>

After a review of the pleadings and other documents forming part of the records of this case, the Court resolves to grant the appeal and reverse the CA Decision.

*The rule on chain of custody in drugs cases*

To sustain a conviction for the offense of illegal sale of dangerous drugs under Article II, Section 5, and illegal possession of dangerous drugs under Article II, Section 11 of Republic Act No. 9165, the prosecution must be able to establish with moral certainty the identity of the confiscated drug.<sup>50</sup> To remove any doubt or uncertainty as to the identity and integrity of the seized drug, it must be proven that the substance illegally sold by the accused is the same substance offered and identified in court.<sup>51</sup> This requirement is known as the chain of custody rule. Chain of custody has been defined as “the duly recorded, authorized movements, and custody of the seized drugs at each stage, from the moment of confiscation to the receipt in the forensic laboratory for examination until it is presented to the court.”<sup>52</sup>

The chain of custody rule is provided for under Article II, Section 21 of Republic Act No. 9165, as amended by Republic Act No. 10640,<sup>53</sup> which was passed on July 15, 2014. Considering that the illegal acts of selling and/or possessing dangerous drugs were allegedly committed by Atanacio and Magno on September 20, 2020, the revised chain of custody rule applies in this case. In this regard, Article II, Section 21 of Republic Act No. 9165, as amended by Republic Act No. 10640, provides that:

SEC. 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals,

<sup>49</sup> *People v. XXX*, 904 Phil. 973, 979 (2021) [Per J. J. Lopez, Third Division].

<sup>50</sup> *People v. Del Rosario*, 874 Phil. 881, 893 (2020) [Per J. Gesmundo, Third Division].

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 894.

<sup>53</sup> An Act to Further Strengthen the Anti-drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, otherwise known as the ‘Comprehensive Dangerous Drugs Act of 2002, approved on July 15, 2014.

instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

(2) Within [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;

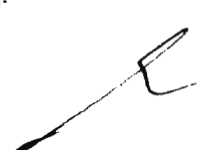
(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: Provided, That when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors 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 immediately upon completion of the said examination and certification[.] (Emphasis supplied)

From the foregoing, the following are the links that must be established in the chain of custody in a buy-bust operation:

1. The first link is the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer;
2. The second link refers to the turnover of the illegal drug seized by the apprehending officer to the investigating officer;
3. The third link pertains to the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and
4. The fourth link is the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>54</sup>

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<sup>54</sup> See *People v. Somira*, 905 Phil. 472, 482 (2021) [Per J. Delos Santos, Third Division].



While non-compliance with the prescribed procedural requirements will not automatically render the seizure and custody of the items void and invalid, this is true only when (i) there is a justifiable ground for such non-compliance, and (ii) the integrity and evidentiary value of the seized items are properly preserved. Thus, any divergence from the prescribed procedure must be justified and must not affect the integrity and evidentiary value of the confiscated contraband. Absent any of the said conditions, the non-compliance is an irregularity, a red flag, that casts reasonable doubt on the identity of the *corpus delicti*.<sup>55</sup>

*The prosecution failed to establish the first link in the chain of custody*

The first link in the chain of custody involves the seizure, marking, and conduct of inventory of the seized dangerous drug. In *People v. Somira*,<sup>56</sup> the Court, citing its ruling in *People v. Zakaria*,<sup>57</sup> emphasized the importance of this first link as follows:

Crucial in proving the chain of custody is the marking of the seized dangerous drugs or other related items immediately after they are seized from the accused, for the marking upon seizure is the starting point in the custodial link that succeeding handlers of the evidence will use as reference point. Moreover, the value of marking of the evidence is to separate the marked evidence from the corpus of all other similar or related evidence from the time of seizure from the accused until disposition at the end of criminal proceedings, obviating switching, “planting” or contamination of evidence. A failure to mark at the time of taking of initial custody imperils the integrity of the chain of custody that the law requires.<sup>58</sup>

In *Nisperos v. People*,<sup>59</sup> the Court adopted the following guidelines in the marking, inventory, and taking of photographs of seized dangerous drugs:

In order to guide the bench, the bar, and the public, particularly our law enforcement officers, the Court hereby adopts the following guidelines:

1. The marking of the seized dangerous drugs must be done:
  - a. Immediately upon confiscation;
  - b. At the place of confiscation; and
  - c. In the presence of the offender (unless the offender eluded the arrest);

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<sup>55</sup> *Id.*

<sup>56</sup> 905 Phil. 472 (2021) [Per J. Delos Santos, Third Division].

<sup>57</sup> 699 Phil. 367 (2012) [Per J. Bersamin, First Division].

<sup>58</sup> *Id.* at 380–381.

<sup>59</sup> 931 Phil. 945 (2022) [Per J. Rosario, *En Banc*].



2. The conduct of inventory and taking of photographs of the seized dangerous drugs must be done:
  - a. Immediately *after* seizure and confiscation;
  - b. 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; and
  - c. Also in the presence of the insulating witnesses, as follows:
    - i. if the seizure occurred during the effectivity of [Republic Act] No. 9165, or from July 4, 2002 until August 6, 2014, the presence of three [] witnesses, namely, an elected public official; a Department of Justice (DOJ) representative; and a media representative;
    - ii. if the seizure occurred after the effectivity of [Republic Act] No. 10640, or from August 7, 2014 onward, the presence of two [] witnesses, namely, an elected public official; and a National Prosecution Service representative or a media representative.
3. *In case of any deviation from the foregoing, the prosecution must positively acknowledge the same and prove[;] (1) justifiable ground/s for non-compliance[;] and (2) the proper preservation of the integrity and evidentiary value of the seized item/s.*<sup>60</sup> (Emphasis supplied)

Based on the foregoing, the marking of the seized dangerous drugs must be done immediately upon confiscation. The purpose of this requirement is to separate the marked evidence from the corpus of all other similar or related evidence from the time of seizure from the accused until disposition at the end of criminal proceedings, obviating switching, “planting” or contamination of evidence. This is especially true when the quantity of dangerous drugs involved is miniscule, since it is highly susceptible to planting, tampering, or alteration of evidence.<sup>61</sup>

The Court’s ruling in *People v. Holgado*<sup>62</sup> is instructive:

While the miniscule amount of narcotics seized is by itself not a ground for acquittal, this circumstance underscores the need for more exacting compliance with Section 21. In *Malilin v. People*, this court said that “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.”<sup>63</sup>

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<sup>60</sup> *Id.* at 956–957.

<sup>61</sup> *People v. Pulgado*, 920 Phil. 69, 75–76 (2022) [Per S.A.J. Perlas-Bernabe, Second Division].

<sup>62</sup> 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

<sup>63</sup> *Id.* at 99.



In this case, the dangerous drugs allegedly confiscated from Atanacio, which were contained in two heat-sealed sachets, collectively weighed 9.138 grams only. As such, it is incumbent upon the prosecution to prove strict compliance with the rule on chain of custody. A review of the case records, however, reveals irregularities in the marking and inventory of the seized dangerous drugs.

*First*, the marking of the seized dangerous drugs was not done immediately upon confiscation. During his direct examination, Pat. Mendez claimed that he marked the seized items in the presence of the insulating witnesses, who arrived at the place of confiscation around three minutes after the arrest of Atanacio and Magno:

Q: Were the witnesses secured to witness the operation?

A: They were with P/Lt. Soliman, Sir.

Q: *And how many minutes did Soliman and the witnesses arrived (sic) after you declared the arrest of the accused?*

A: *Three [] minutes, Sir.*

....

Q: So, after you recovered all the evidence particularly, the buy bust money and the other plastic sachet of shabu from Joseph Atanacio, what did you do next?

A: I marked and inventoried it, Sir.

Q: And, who personally marked the items or the evidence?

A: Me, Sir.

Q: *And, who were the persons present there when you conducted the markings on the evidence?*

A: *The witnesses Brgy. Kgwd. Michias Vergara and media representative Rommel Bebita, Sir.*<sup>64</sup> (Emphasis supplied)

However, upon cross-examination, Pat. Mendez admitted that the insulating witnesses arrived only after around 10 minutes following Atanacio's and Magno's arrest:

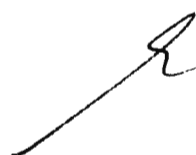
Q: *After both accused were arrested, how long did it take until Mr. Bebita and Vergara arrived?*

A: *More or less [10] minutes, Sir.*

Q: Who arrived first, is it Mr. Bebita or Kgwd. Vergara?

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<sup>64</sup> TSN, Pat. Van Anvie Mendez, March 4, 2021, pp. 12–14.



A: It was Bebita, Sir.

Q: After Mr. Bebita arrived, how long until Kgwd. Vergara arrived?

A: Not long after, Sir.<sup>65</sup> (Emphasis supplied)

In affirming the conviction of Atanacio and Magno, the CA relied on the argument that “immediate confiscation” has no exact definition.<sup>66</sup> The CA then cited the Court’s ruling in *People v. Gum-Oyen*,<sup>67</sup> in which the marking of the seized dangerous drugs in the police station, instead of the place of confiscation, was deemed compliant with the chain of custody rule.<sup>68</sup>

The Court disagrees with the CA’s disquisition.

In *Holgado*, the Court held that:

*Trial courts should meticulously consider the factual intricacies of cases involving violations of Republic Act No. 9165. All details that factor into an ostensibly uncomplicated and barefaced narrative must be scrupulously considered. Courts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving miniscule amounts of drugs. These can be readily planted and tampered.*<sup>69</sup> (Emphasis supplied)

In the present case, there is a glaring irregularity which seriously taints the integrity of the dangerous drugs confiscated from Atanacio, and highlights the importance of marking the seized buy-bust items immediately upon confiscation.

As previously discussed, Pat. Mendez admitted during cross-examination that he marked the seized dangerous drugs in the presence of the insulating witnesses, who arrived at the place of confiscation around 10 minutes after the arrest of Atanacio and Magno. Notably, during his direct examination, Pat. Mendez testified that the first item that he marked was the heat-sealed sachet containing shabu, *which was in his left pocket*:

Q: So, after you recovered all the evidence particularly, the buy bust money and the other plastic sachet of shabu from Joseph Atanacio, what did you do next?

A: I marked and inventoried it, Sir.

Q: And, who personally marked the items or the evidence?

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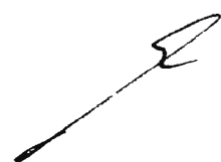
<sup>65</sup> *Id.* at 39.

<sup>66</sup> *Rollo*, p. 32.

<sup>67</sup> 603 Phil. 665 (2009) [J. Tinga, Second Division].

<sup>68</sup> *See, Id.* at 674–675.

<sup>69</sup> 741 Phil. 78, 100 (2014) [Per J. Leonen, Third Division].



- A: Me, Sir.
- Q: And, who were the persons present there when you conducted the markings on the evidence?
- A: The witnesses Brgy. Kgwld. Michias Vergara and media representative Rommel Bebita, Sir.
- Q: How about the arrested persons, were they present while you were conducting markings on the exhibits?
- A: Yes, Sir. They were beside me.
- Q: *Mr. Witness, what particular item did you mark first?*
- A: *It was the buy bust item which was with me in my left pocket, Sir.*
- Q: What particular marking did you put on the buy bust item?
- A: “JS-BB1”, Sir.
- Q: “JA-BB1”?
- A: Yes, Sir.
- Q: What does “JA-BB” means [sic] to you?
- A: “JA” means Joseph Atanacio as acronym and “BB” for Buy Bust.
- Q: So, “JA” represents the name of accused Joseph Atanacio?
- A: Yes, Sir.
- Q: *I am showing to you one [] pc. of heat-sealed transparent plastic sachet containing white crystalline substance. This item is already marked as Exh. “K-1.” On the face of the plastic, there are markings “JA-BB”, date and signature. Are you familiar with this item Exh. “K-1?”*
- A: Yes, Sir.
- Q: *What is this item?*
- A: *It’s a plastic heat-sealed, Sir.*
- Q: *Yes I know that this is a plastic sachet. What could you consider this item?*
- A: *It was the buy bust item, Sir.*<sup>70</sup> (Emphasis supplied)

In *People v. David*,<sup>71</sup> the Court held that keeping the confiscated dangerous drugs in the pocket of the arresting officer is a doubtful and suspicious way of ensuring the integrity of the items:

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<sup>70</sup> TSN, Pat. Van Anvie Mendez, March 4, 2021, pp. 14–15.

<sup>71</sup> 942 Phil. 530 (2023) [J. Inting, Third Division].



Time and again, *the Court has ruled that keeping the seized items in the pockets is a doubtful and suspicious way of ensuring the integrity of the items; that a police officer's act of bodily-keeping the confiscated items, which are the subject of the offenses penalized under the Comprehensive Dangerous Drug Act of 2002, is fraught with dangers.* The Court previously held that, *"failure to mark the drugs immediately after they were seized from the accused casts doubt on the prosecution evidence warranting an acquittal on reasonable doubt."* Because of the failure in immediately marking the seized items, it creates a scenario wherein the seized item subject of the sale transaction was switched with the seized items subject of the illegal possession case. The immediate marking of the drugs after they are seized from the accused is material in the determination of the impossible penalty as the illegal possession of shabu depends on the quantity or weight of the seized drug.<sup>72</sup> (Emphasis supplied, citations omitted)

Based on the foregoing, the Court agrees with Atanacio and Magno that the slightest delay in the marking of the seized dangerous drugs already created a nagging doubt as to the precautionary and safeguarding measures adopted by Pat. Mendez on the confiscated items, thus putting into question the integrity and evidentiary value of the items seized.

*Second*, the marking of the seized dangerous drugs was not compliant with Section 2-6, paragraph 2.35 of the 2014 Revised PNP Manual on Anti-Illegal Drugs Operations and Investigation (**2014 PNP Manual**), which provides:

2.35. The seizing officer must mark the evidence with his initials indicating therein the date, time and place where the evidence was found/recovered or seized.

Based on Pat. Mendez' testimony, only the initials of Atanacio, as well as the date and Pat. Mendez' signatures were inscribed on the confiscated items, omitting the initials of the seizing officer, time, and place of the buy-bust operation, in clear contravention of the PNP's own set of procedures for the conduct of its operations. Pat. Mendez marked the sachets with the following initials: "JA-BB1"<sup>73</sup> and "JA-P-1".<sup>74</sup> The initials "JA" refers to Joseph Atanacio,<sup>75</sup> "BB" refers to the buy-bust operation,<sup>76</sup> and "P" refers to possession of illegal drugs.<sup>77</sup> Clearly, there were no initials of the seizing officer, time, and place of the buy-bust operation.

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<sup>72</sup> *Id.* at 13–14. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

<sup>73</sup> TSN, Pat. Van Anvie Mendez, March 4, 2021, p. 14.

<sup>74</sup> *Id.* at 16.

<sup>75</sup> *Id.* at 15.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* at 16.

A handwritten signature in black ink, consisting of a stylized, cursive 'A' followed by a horizontal line and a small flourish.



In *People v. Casa*,<sup>78</sup> the Court ruled that failure to comply with the PNP Manual in marking the seized dangerous drugs contributes to the uncertainties on whether the marking was properly done by the police officers involved, which in turn thicken the cloud of doubt surrounding the integrity and evidentiary value of the confiscated items:

As discussed by our esteemed colleague Justice Caguioa in his Concurring Opinion, the Court has repeatedly stressed that a buy-bust is a planned operation, and given that the 2014 PNP Manual itself expressly provides its application to all PNP members and its Anti-Illegal Drugs Units in all levels on procedures that must be observed in the course of anti-illegal drugs operations and investigation, it strains credulity why the buy-bust team could not have at least marked the seized items according to the procedures in their own operations manual.

Indeed, *while PNP Manuals are not the absolute and controlling requirement for the conduct of the first link under Sec[ti]on] 21(1) of [Republic Act] No. 9165, as amended, noncompliance thereof still contributes to the uncertainties on whether the marking was properly done by the police officers involved. Evidently, such uncertainties thicken the cloud of doubt surrounding the integrity and evidentiary value of the seized items.*<sup>79</sup> (Emphasis supplied)

To the Court, the lapses committed by the apprehending officers in marking the seized items are not minor, and created reasonable doubt that the items confiscated from Atanacio and Magno are the same items offered in evidence.

*The fourth link in the chain of custody was likewise not established*

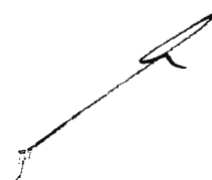
To establish the fourth link in the chain of custody, the prosecution presented P/Lt. Alianza, who testified that she was the Forensic Chemist who received the drug specimens from Pat. Mendez. She then conducted qualitative laboratory examination upon receiving the specimens and issued a chemistry report stating that the specimens tested positive for the presence of methamphetamine hydrochloride, a dangerous drug. P/Lt. Alianza then placed the specimens in a ziplock container sealed with masking tape and she placed her markings thereon.<sup>80</sup> In addition, P/SSgt. Gacutan testified that he was the designated exhibit custodian who received the marked drug items and documents from P/Lt. Alianza.<sup>81</sup>

<sup>78</sup> 928 Phil. 356 (2022) [C.J. Gesmundo, *En Banc*].

<sup>79</sup> *Id.* at 397.

<sup>80</sup> TSN, P/Lt. Carmen Gabrielle Alianza, November 19, 2020, pp. 4–8.

<sup>81</sup> TSN, P/SSgt. Ian Fritsch Gacutan, November 5, 2020, pp. 4–6.



The Court rules that the above narration fails to prove that the fourth link in the chain of custody was unbroken. In *Besenio v. People*,<sup>82</sup> the Court discussed the required details in the prosecution witness' testimony in order to comply with the fourth link, particularly the precautionary measures after the laboratory examination of the drug specimens, thus:

The Court reverberates that judicial admission excuses lapses only up to the third link. The prosecution must still prove compliance with the fourth link. In order to do so, the forensic chemist must testify on the details pertaining to the handling and analysis of the dangerous drugs submitted for examination, i.e., when and from whom the dangerous drugs was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in. They must also identify the name and method of analysis used in determining the chemical composition of the subject specimen. *Moreover, the forensic chemist must testify that he received the seized article as marked, properly sealed and intact; that he resealed it after examination of the content; and that he placed his own marking on the same to ensure that it could not be tampered pending trial. Furthermore, there must be information as to how the seized drugs was stored after it was examined by the forensic chemist, who handled the drugs specimen after examination, and where it was kept until it was retrieved and presented in court.*<sup>83</sup> (Emphasis supplied, citations omitted)

Glaringly, P/Lt. Alianza did not testify how she handled the drug specimens before, during, and after she conducted the laboratory examination. Similarly, P/SSgt. Gacutan failed to narrate how and where he kept the drug specimens after he received them from P/Lt. Alianza until the same were presented in court. The testimonies of P/Lt. Alianza and P/SSgt. Gacutan are bereft of any detail as to whether they took precautionary measures after examination of the seized drug specimens to preserve their integrity and evidentiary value before these were submitted to the RTC. In *People v. Ubungen*,<sup>84</sup> the Court ruled that absent any testimony on the management, storage, and preservation of the seized illegal drug, the fourth link in the chain of custody could not be reasonably established.<sup>85</sup>

The Court is cognizant of the last paragraph of Section 21(a) of Republic Act. No. 9165, as amended by Republic Act No. 10640, which contains a saving *proviso* to the effect 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 the said items.” However, in order for the saving *proviso* to apply, the prosecution must first recognize and explain the lapse or lapses in procedure committed by the arresting officers.<sup>86</sup> This did not happen in this

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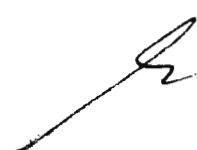
<sup>82</sup> G.R. No. 237120, June 26, 2024 [J. Dimaampao, Third Division].

<sup>83</sup> *Id.* at 11. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

<sup>84</sup> 836 Phil. 888 (2018) [J. Martires, Third Division].

<sup>85</sup> *Id.* at 902.

<sup>86</sup> *People v. Bermejo*, 855 Phil. 65, 83 (2019) [Per J. Carandang, First Division].



case. Neither the prosecution nor the apprehending officers offered any justification for the non-compliance with the procedure required under Section 21 of Republic Act No. 9165, as amended by Republic Act No. 10640. This unjustified departure from the chain of custody rule casts doubt on the prosecution's evidence.

In view of the foregoing, the Court holds that the integrity and evidentiary value of the dangerous drugs allegedly seized from Atanacio and Magno had not been adequately preserved. The lapses and significant gaps in the chain of custody cast serious doubt on the integrity of the *corpus delicti*. Consequently, the Court acquits Atanacio and Magno of the crimes charged against them.

**ACCORDINGLY**, the appeal is **GRANTED**. The Decision, dated March 14, 2024, of the Court of Appeals in CA G.R. CEB CR-HC No. 04514, which affirmed the Joint Decision, dated December 12, 2022, of Branch 25, Regional Trial Court, Iloilo City, in Criminal Case Nos. 20-85657 and 20-85658, is **REVERSED**.

Accused-appellants Joseph Atanacio y Pagunaling and Jon Magno y Lagamo are **ACQUITTED** of the crimes of violation of Article II, Sections 5 and 11 of Republic Act No. 9165, in Criminal Case Nos. 20-85657 and 20-85658 before Branch 25, Regional Trial Court, Iloilo City on the ground of reasonable doubt and they are **ORDERED RELEASED** immediately from detention, unless they are being held in custody for other lawful cause.

Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director General is **ORDERED** to **REPORT** to this Court, within five days from receipt of this Decision, the action taken in compliance with this order.

Let entry of judgment be **ISSUED** immediately.

**SO ORDERED.**


  
**MARIA FILOMENA D. SINGH**  
Associate Justice

WE CONCUR:



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

On official business  
**HENRI JEAN PAUL B. INTING**  
Associate Justice



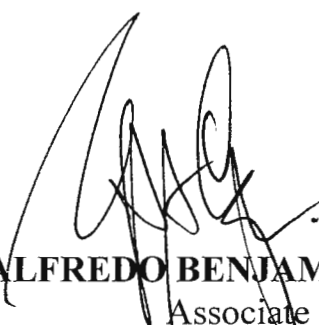
**SAMUEL H. GAERLAN**  
Associate Justice



**JAPAR B. DIMAAMPAO**  
Associate Justice

### ATTESTATION

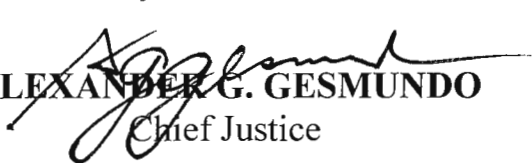
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Chairperson, Third Division

### CERTIFICATION

Pursuant to Article VIII, Section 13 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