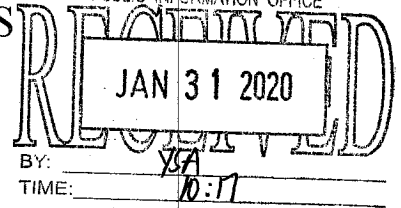




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila
SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Special Second Division, issued a Resolution dated **11 December 2019** which reads as follows:*

“**G.R. 231366** (*People of the Philippines v. Rolando Caramat y Perez*).— This is an appeal¹ from the Decision² dated November 7, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07643. The assailed CA Decision affirmed the Judgment³ of Branch 37, Regional Trial Court Calamba City (RTC) finding the Rolando Caramat y Perez guilty beyond reasonable doubt for violating Sections 5⁴ and 11⁵, Article II of Republic Act No. (RA) 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

The Facts

The cases stemmed from two separate Informations⁶ filed before the RTC charging the accused-appellant with violations of Sections 5 and 11 of RA 9165.

On August 16, 2013, the accused-appellant with the assistance of his counsel, pleaded not guilty to the charges.⁷ Having the same facts and evidence, the two criminal cases were later consolidated. After the termination of the pre-trial, trial on the merits ensued.

¹ *Rollo*, pp. 20-22.

² *Id.* at 2-19; penned by Associate Justice Ramon R. Garcia with Associate Justices Leoncia R. Dimagiba and Jhosep Y. Lopez, concurring.

³ *CA rollo*, pp. 20-30; penned by Presiding Judge Caesar C. Buenagua.

⁴ Sec. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.

⁵ 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

⁶ Criminal Case No. 20699-13-C is for violation of Section 5, Article II of RA 9165 or Illegal Sale of Dangerous Drugs (Records, p. 1), while Criminal Case No. 20547-13-C is for violation of Section 11, Article II of RA 9165 or Illegal Possession of Dangerous Drugs (Records, p. 25).

⁷ *Id.* at 18.

Version of the Prosecution

The prosecution alleged that on July 4, 2013 at around 5:00 p.m., members of Calauan Police Station in Laguna conducted a buy-bust operation which resulted in the apprehension of the accused-appellant.

Prior to the operation, the Caluan Police received several phone calls regarding the illegal drug activities of the accused-appellant in *Brgy. Dayap, Calauan, Laguna*. Upon receiving the informations, the policemen formed a buy-bust team, which was authorized by Police Inspector Sivler Cabanillas (P/Insp. Cabanillas), to proceed with the operation. Thereafter, the team proceeded to the target area. Through a text message from the confidential informant, Police Officer I Noel Hacutina (PO1 Hacutina) was instructed to hand over the marked money to the accused-appellant and the latter will automatically deliver to him a plastic sachet containing *shabu*.

When the police officers arrived at the target area, they parked the vehicle in about ten meters from a burger stand. Upon seeing the accused-appellant standing outside the burger stand, PO1 Hacutina approached him and, following the instruction of the confidential informant, handed over the ₱500-bill without saying anything. In return, the accused-appellant gave a plastic sachet containing white crystalline substance. After which, PO1 Hacutina executed the pre-arranged signal. Thus, the other members of the team rushed to the target area and introduced themselves as police officers. PO1 Noriel Kristoffer Afuang (PO1 Afuang) frisked the accused-appellant and recovered from the latter's right pocket the marked ₱500-bill. After further body search of the accused-appellant, PO1 Afuang confiscated another sachet of *shabu*. Thereafter PO1 Hacutina marked the sachet of *shabu*, subject of sale, with the initials "RPC-1", while he marked the other small plastic sachet of *shabu* with the initials "RPC-2." On the other hand, the police officers took photographs of the accused-appellant and the seized items.⁸ After the markings of the evidence recovered, the team brought the accused-appellant and the seized items to the police station where an inventory was conducted. The inventory of evidence was witnessed by a *barangay* official. Thereafter, they delivered the seized items to the PNP Crime Laboratory wherein, upon examination, the items tested positive for Methamphetamine Hydrochloride or *shabu*, a dangerous drug.⁹

⁸ *Id.* at 13.

⁹ *Id.* at 6.

Version of the Defense

In his defense, the accused-appellant denied the allegations against him and insisted that on July 4, 2013 at around 10:00 a.m., he was at his barber shop cutting the hair of his customer, Mark Anthony Rivera (Mark), when a man who introduced himself as police officer approached and handcuffed him for no apparent reason. The police officer forced him to ride in a motorcycle. The police officer brought him to the police station where he was detained.

In the evening of that date, the police officers brought accused-appellant to the *barangay* hall of *Barangay* Dayap. There, he learned that he was charged with selling illegal drugs. He asserted that he was not involved in a drug sale transaction near a burger stand in *Barangay* Dayap with PO1 Hacutina at 5:00 p.m. because he was already handcuffed by PO2 Alhambra earlier that day. According to him, he was already detained at the police station when the alleged buy-bust operation took place.¹⁰

Mark, corroborated the material points of the accused-appellant's testimony. He testified that on July 4, 2013, he was inside the barbershop of the accused-appellant, who was then cutting his hair; that a man in civilian clothes introduced himself as a policeman to accused-appellant; and that the policeman immediately arrested and handcuffed the accused-appellant for allegedly selling illegal drugs.¹¹

The Ruling of the RTC

In a Judgment dated July 2, 2015, the RTC found the petitioner guilty beyond reasonable doubt of illegal sale and possession of *shabu*. In Criminal Case No. 20692-2013-C, the RTC sentenced accused-appellant to suffer life imprisonment and to pay a fine of ₱500,000.00. In Criminal Case No. 20699-2013-C, the RTC sentenced accused-appellant to suffer the penalty of 12 years and one day, as minimum, to 14 years, as maximum, and to pay a fine of ₱300,000.00.

Aggrieved, the accused-appellant appealed the judgment to the CA.¹² He argued: (1) that the trial court gravely erred in convicting him despite the prosecution's failure to prove with moral certainty all the elements of the offenses; (2) that the law enforcers blatantly disregarded

¹⁰ *Rollo*, p. 7.

¹¹ *Id.* at 7.

¹² *CA rollo*, p. 31.

the procedural requirements under Section 21 of RA 9165; (3) that the chain of custody was broken; and (4) that the testimonies of prosecution witnesses, PO2 Afuang and PO1 Hacutina, were riddled with inconsistencies.

On the other hand, the People, through the Office of the Solicitor General (OSG) asserted that all the elements of Illegal Sale and Possession of *shabu* are present. The OSG argued that there was an exchange of the marked P500.00 bill and the prohibited drug between the accused-appellant and PO3 Hacutina. Further, another sachet of *shabu* was recovered after conducting a body search on the accused-appellant. The OSG likewise stressed that the prosecution was able to establish an unbroken chain of custody of the illegal drugs. It asseverated that every step in preserving the seized items was proven by the prosecution beyond reasonable doubt.

The Ruling of the CA

On November 7, 2016, the CA affirmed the accused-appellant's conviction. The CA ratiocinated that all the elements of the offenses charged were proven beyond reasonable doubt. It likewise ruled that there was no break in the chain of custody over the confiscated illegal drugs and that its integrity and evidentiary value were properly preserved.

Hence, the appeal. The parties adopted the respective Appellant's and Appellee's Briefs¹³ filed before the CA as the Supplemental Briefs in this Court.

The Court's Ruling

The appeal is meritorious.

It is well-settled that this Court will not disturb the trial court's findings of fact especially when affirmed by the CA unless the trial court is shown to have overlooked, misapprehended or misapplied any fact or circumstance of weight and substance.¹⁴ However, it is also doctrinal that an appeal in criminal cases 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

¹³ *Id.* at 35-37; 40-41.

¹⁴ *People v. ZZZ*, G.R. No. 228828, July 24, 2019; *People v. Joseph Agalot y Rubio*, G.R. No. 220884, February 21, 2018.

grounds other than those that the parties raised as errors.¹⁵ The appeal confers upon the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.¹⁶

In addition, the rule that the trial court's findings of fact, especially when affirmed by the CA are entitled to great weight and credence, however, does not apply where the facts of weight and substance have been overlooked, misapprehended or misapplied by the trial court, as in the case at bench.¹⁷

After judiciously reviewing the records of the instant case, the Court finds that the trial court overlooked and misapprehended the following factual evidence: (1) the material inconsistencies in the statements of PO2 Afuang and PO1 Hacutina regarding the facts surrounding the transaction of illegal drugs which led to the arrest of the accused-appellant; (2) only a *barangay* official witnessed the inventory which is in contravention with the witness requirement under Section 21 of RA 9165 thus, proving the fact that the police officers failed to perform their job in a regular manner; and (3) there was no proof of any precautionary measure taken by the custodian of the seized items from the time of its confiscation until its presentation to the trial court.

In any criminal prosecution, the accused is entitled to a right to be presumed innocent unless proven guilty beyond reasonable doubt. No less than our Constitution under Section 14, paragraph 2 of Article III mandates that the accused shall be presumed innocent until the contrary is proved. In addition, Section 2, Rule 134 of the Rules of Court specifically provides that "*in a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt.*"

In deciding cases involving minuscule amounts of illegal drugs, as in the case at bar, courts are reminded to exercise a higher level of scrutiny.¹⁸ This Court has mandated stricter compliance with the rules when the amount of the dangerous drug is minute due to the possibility that the seized item was tampered.¹⁹ This Court is not unaware that, in some instances, law enforcers resort to the practice of planting evidence to extract information from or even to harass civilians.²⁰ This Court has

¹⁵ *Vaporoso v. People*, G.R. No. 238659, June 3, 2019.

¹⁶ *Id.*

¹⁷ *People v. Villarta*, G.R. No. 217887, March 14, 2018, 859 SCRA 193, 207.

¹⁸ *People v. Fatima Tumangong v Diaz*, G.R. No. 227015, November 26, 2018

¹⁹ *Id.*

²⁰ *People v. Bricero y Fernandez*, G.R. No. 218428, November 7, 2018.

repeatedly been warned trial courts to exercise extra vigilance in trying drug cases, lest an innocent person is made to suffer the unusually severe penalties for drug offenses.²¹

Here, what is involved is a total of 0.09 gram of *shabu*. Thus, the Court has more reason to strictly apply the rules on chain of custody, markings and inventory due to the possibility that the subject illegal drugs are products of planting or substitution and that they can easily be contaminated or tampered while being passed upon from one hand to another.

The chain of custody rule is but a variation of the principle that real evidence must be authenticated prior to its admission into evidence.²² To establish a chain of custody sufficient to make evidence admissible, the proponent needs only to prove a rational basis from which to conclude that the evidence is what the party claims it to be.²³ In other words, in a criminal case, the prosecution must offer sufficient evidence from which the trier of fact could reasonably believe that an item still is what the government claims it to be.²⁴ Specifically, in the prosecution of illegal drugs, the well-established federal evidentiary rule in the United States is that when the evidence is not readily identifiable and is susceptible to alteration by tampering or contamination, courts require a more stringent foundation entailing a chain of custody of the item with sufficient completeness to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.²⁵

In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt.²⁶ In *People v. Guerrero*²⁷ the Court ruled:

xxx "by the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great." Thus, while it is true that a buy-bust operation is

²¹ *Id.*

²² *People v. Romy Lim y Miranda*, G.R. No. 231989, September 4, 2018.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *People v. Arcadio Malabanan y Peralta and Norman Quita y Quibido*, G.R. No. 241950, April 10, 2019 citing *People v. Suan y Jolongon*, G.R. No. 184546, February 22, 2010, 627 Phil. 174-193.

²⁷ G.R. No. 228881, February 6, 2019.

legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors, the law nevertheless requires strict compliance with procedures laid down by it to ensure that rights are safeguarded.

To successfully prosecute a case for illegal sale of dangerous drugs the following elements must be proven beyond reasonable doubt: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment thereof.²⁸ On the other hand, to prove a case for illegal possession of dangerous drugs, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.²⁹

After carefully looking into the testimonies of the witnesses, the Court finds that there are material inconsistencies in the prosecution witnesses' statements which disproves the prosecution's theory that there was an actual buy-bust operation that took place. Notably, PO1 Hacutina, the *poseur*-buyer, stated that he was able to consummate the drug sale with the accused-appellant *without any conversation*. He explained that he was already pre-informed, thru cellphone text messages, that accused-appellant would approach him.³⁰ Thus, PO1 Hacutina just gave the marked money to the accused-appellant, and the latter handed over the alleged sachet of illegal drugs without any of them exchanging words. However, this statement is in direct contravention to the testimony of PO2 Afuang, who testified that the *poseur*-buyer *exerted efforts to convince first the accused-appellant to sell shabu to him*; thereby necessarily implying that there was a conversation during the sale transaction. PO2 Afuang testified as follows:

“Prosecutor Wagan:

Q: When you arrived at Brgy. Dayap, what transpired next?

A: When we were still inside the car, we saw Rolando Caramat outside a burger stand, sir.

Q: Now when you saw the person of the accused, at the burger stand, what did you do?

A: We saw that there was a person who approached him and gave something to him, sir.

²⁸ *People v. Yagao*, G.R. No. 216725, February 18, 2019.

²⁹ *People v. Villarta*, *supra* note 17.

³⁰ TSN, December 4, 2014, p. 6.

Q: Now when you see this accused handed something to another person, what happened?

A: Our poseur-buyer PO1 Hacutina went near him and convinced him that he is going to buy shabu, sir.

Q: In relation to distance how far were you from Officer Hacutina and Rolando Caramat?

A: At about 10 meters, sir.

Q: You were about 10 meters from Hacutina and the accused?

A: Yes, sir.

Q: What happened next?

A: We prepared a 500 peso bill marked money with which I marked "x" at the last 0 digit of the serial number sir.

Q: So what did Officer Hacutina do with the marked money?

A: When PO1 Hacutina convinced Rolando Caramat to buy shabu and handed the money to him, that was the time that he removed his cap as a sign that he already bought shabu, sir.³¹

From the above-cited testimony, it can be gleaned that PO1 Hacutina first talked to the accused-appellant and was able to convince the latter to sell *shabu* to him. This testimony is utterly inconsistent with the testimony of PO1 Hacutina, who testified that not a single word was exchanged between him and the accused-appellant at the time the alleged transaction happened, to wit:

Prosecutor Barut:

Q: Tell us what happened in that buy bust operation?

A: Our informant or agent texted us that Rolando Caramat is already in the area and according to him he will fetch us, I will approach Rolando Caramat and I will give him Php500.00, ma'am.

COURT:

Q: You will act as *poseur-buyer*?

A: Yes, your honor.

Q: But you are not accompanied by a civilian agent?

A: We communicated with the agent through texting, your honor.

Q: You just communicating (*sic*) through texting?

A: Yes, your honor.

Q: You purchased prohibited drugs from the accused without being accompanied by a civilian informant?

A: Yes, honor.

³¹ TSN, August 1, 2014, pp. 5-6.

Proceed.”³²

XXX

XXX

XXX

Prosecutor Barut:

Q: So what happened when you proceeded to that burger stand?

A: Our asset tested me, sending message to me, I should go there and approach the target, when I approached the target, the items will be handed to me and the P500.00 bill will be handed to the target, ma'am.

Q: *Upon seeing the suspect, you immediately handed the Php500.00?*

A: *No, ma'am because upon instruction of our asset, I will approach him and there will be no conversation at all, he will hand over to me the plastic sachet and I will hand over to him the P500.00, ma'am.*

Q: You did the instruction given by the asset?

A: Yes, ma'am.

Q: *You received the plastic sachet and you gave the money, there was no conversation that took place between you and the suspect?*

A: *Yes, ma'am.*³³

The conflicting testimonies of the prosecution witnesses give the Court a wide reason to doubt whether there was really a drug buy-bust operation that occurred on that date and at that place. Be that as it may, still, the accused-appellant must be acquitted for failure of the law enforcers to preserve the identity and evidentiary value of the seized items. The members of the buy-bust team failed to provide precautionary measures from the first link of the chain of custody until the presentation of evidence in court. The law enforcers failed to present an evidence how the sachets of *shabu* were stored, where they were stored, what container was used in order to prevent any tampering, switching, planting and contamination of evidence, who were the handlers of the items seized from time to time and how they were separated from other evidence in the storage area/cabinet.

Section 1(b) of Dangerous Drugs Board Regulation No. 1 series of 2002 which implements RA 9165, defines chain of custody as follows:

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.*

³² TSN, December 4, 2014, p. 5.

³³ TSN, December 4, 2014, pp. 6-7.

Such records 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 the time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition. (*Italics Supplied*)

The purpose of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed.³⁴ To avoid any doubt, the prosecution must show the continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.³⁵ This includes testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain.³⁶ These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.³⁷

In *People v. Sipin*³⁸ the Court reiterated the links that must be established in the chain of custody in a buy-bust operation, to wit: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officers; the turnover of the illegal drug seized to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the illegal drug from the forensic chemist to the court.

To ensure the establishment of the chain of custody, Section 21 (1) of RA 9165 specifically states:

- (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

³⁴ See *People v. Alboka*, G.R. No. 212195, February 21, 2018 856 SCRA 252, 270; *People v. Roberto Andrada*, G.R. No. 232299, June 20, 2018, 867 SCRA 454, 497.

³⁵ *People v. Belmonte*, G.R. No. 224588, July 4, 2018.

³⁶ *Junie Mallillin y Lopez v. People*, 576 Phil. 576, 587.

³⁷ *Id.*

³⁸ G.R. No. 224290, June 11, 2018.

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.

Complementing the foregoing rule, Section 21 (a) of the Implementing Rules and Regulations of RA 9165 provides:

(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: xxx xxx xxx (Italics Ours)

On July 15, 2014, RA 10640³⁹ amended RA 9165 as follows:

The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct physical inventory of the seized items and photograph the same *in the presence of the accused or the persons 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: xxx xxx xxx (Italics Supplied)

From the foregoing rules, it is clear that as part of the chain of custody, the law requires that the marking, physical inventory, and photography of the confiscated drugs must be conducted immediately after seizure, although jurisprudence recognized that "marking upon immediate confiscation contemplated even marking at the nearest police station or office of the apprehending team."⁴⁰

Moreover, the law directs that the inventory and photography be done in the presence of the accused from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if *prior* to the amendment of RA 9165 by RA 10640, a representative from the media *and* the Department of Justice (DOJ), *and*

³⁹ "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.

⁴⁰ *People v. Alconde, et. al.*, G.R. No. 238117, February 4, 2019.

any elected public official;⁴¹ or (b) if *after* the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service (NPS) *or* the media.⁴² Evidently, before the amendment of RA 9165, three (3) witnesses are required to be present during inventory and photography of the seized items. After such amendment, only two (2) witnesses are required to be present, it could either be an elected public official and representative of the NPS or a representative from the media. The presence of these witnesses is intended to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.

Here, the prosecution utterly failed to prove the *corpus delicti* of the offenses charged. The prosecution failed to show and prove the identity of the object of the transaction which is part of the first element of illegal sale of dangerous drugs. Likewise, the first element of illegal possession of dangerous drugs that the accused is in possession of an item or object which is identified to be a prohibited drug was not clearly established. The police officers failed to provide insulating mechanism to preserve the integrity of the dangerous drugs allegedly recovered from the accused-appellant. Thus, it becomes futile to prove the rest of the links in the chain of custody.

Further, the law enforcers ignored the requirements provided under Section 21 of RA 9165. Notably, only a *barangay* official witnessed the inventory of the seized items.⁴³ The accused-appellant was apprehended for allegedly selling illegal drugs on July 4, 2013 which is way before the amendment of RA 9165 by RA 10640 on July 15, 2014. Thus, the law requires the presence of representatives from the media *and* the DOJ, *and* any elected public official. Evidently, only an elected public official was present and witnessed the inventory of the confiscated items.

While the absence of the required witnesses under Section 21 of RA 9165 does not *per se* render the confiscated items inadmissible,⁴⁴ the prosecution must provide a justifiable reason for such failure or must adduce any genuine and sufficient effort to secure the required witnesses.⁴⁵ The presence of these witnesses during the marking and inventory of items after seizure and confiscation cannot be brushed aside

⁴¹ Section 21(1) and (2), Article II of RA 9165 and its Implementing Rules and Regulations.

⁴² Section 21, Article II of RA 9165, as amended by RA 10640. See *People v. Edwin Alconde*, *supra* note 40.

⁴³ Records, p. 10.

⁴⁴ *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 376.

⁴⁵ *Id.*

as a simple procedural technicality.⁴⁶ These insulating witnesses can make sure that there will be no planting, substitution, switching or tampering of evidence. In this case, not a single explanation was offered by the prosecution why the law enforcers failed to secure representatives from the media and DOJ. The blunders committed by the buy-bust team cast further doubt on the integrity and evidentiary value of the two sachets of *shabu* allegedly confiscated from the accused-appellant. Indeed, the very identity of the subject *shabu* cannot be established with certainty by mere testimony of the members of the buy-bust team. Otherwise, the prosecution of drug cases will entirely depend on the self-serving statements of the law enforcers, creating dangerous implications to the enforcement of RA 9165.

Also, it is worthy to stress that no Chain of Custody Form was presented to prove how the alleged sachet of *shabu* was handled, the different hands that gained possession of the item, and the methods the handlers used to secure the integrity and evidentiary value of the illegal substance. It is clear that there is no evidence of each link of the chain of handling the items seized: where they were, what happened to them, how and from whom they were received, the conditions in which the handlers received them and their conditions upon delivery.

These lapses demand the accused-appellant's acquittal. The prosecution's claim that sachets of *shabu* were recovered from the accused-appellant is bereft of any supporting evidence. By failing to follow even the simplest witness requirement under Section 21 of RA 9165, the police officers cannot be presumed to have regularly exercised their duties during the entire operation. The blatant violations committed by these agents of the law cannot be countenanced. Otherwise, the Court will be giving these law enforcers license to abuse their power and authority, defeating the purpose of the law, violating human rights, and eroding the justice system in this country.

WHEREFORE, the appeal is **GRANTED**. The Decision dated November 7, 2016 of the CA in CA-G.R. CR-HC No. 07643 is **REVERSED** and **SET ASIDE**. The accused-appellant is hereby **ACQUITTED** and is ordered immediately **RELEASED** from detention, unless he is detained for some other lawful cause. Let entry of final judgment be issued immediately.

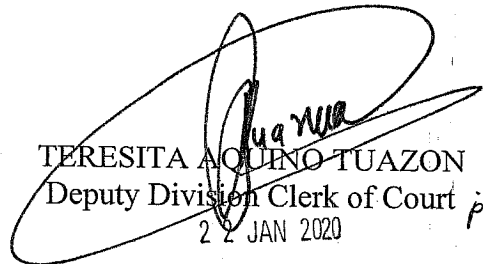
Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation.

⁴⁶ *People vs. Dela Victoria*, G.R. No. 233325, April 16, 2018, 861 SCRA 305, 322.

The Director is **ORDERED** to **REPORT** to this Court the action taken hereon within five (5) days from receipt of this Decision.

SO ORDERED.”

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court p 1/22
22 JAN 2020

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Makati City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 37
Calamba City
(Crim. Case Nos. 20692-2013-C and 20699-2013-C)

ROLANDO CARAMAT y PEREZ (x)
Accused-Appellant
c/o The Director
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THE DIRECTOR (x)
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CA-G.R. CR-H.C. No. 07643

Please notify the Court of any change in your address.
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