



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 2, 2020** which reads as follows:*

“G.R. No. 247271 (*People of the Philippines v. Chiu Chien Chun, also known as “Qui Jian Jun”*). – The instant appeal¹ assails the Decision² dated September 20, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09764 affirming the Decision³ dated July 3, 2017 of the Regional Trial Court of Pasay City, Branch 116, where accused-appellant Chiu Chien Chun, also known as “Qui Jian Jun” (Chun) was found guilty for illegal possession of dangerous drugs defined and penalized under Section 11 of Republic Act No. (R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Facts of the Case

On October 16, 2015, Director Ismael Fajardo of the Philippine Drug Enforcement Agency-Special Enforcement Service (PDEA-SES) and Police Inspector (PINSP) Lorenzo Bacía of the Philippine National Police-Anti-Illegal Drug Group (PNP-AIDG) received a tip from a confidential informant on the importation and distribution of illegal drugs by Chun and a certain Mike. Director Fajardo and PINSP Bacía summoned a joint case conference with some officers from PDEA-SES and PNP-AIDG units for a case build-up on Chun and this Mike. The team conducted surveillance operations and further identified Chun and his associates.⁴

¹ Notice of Appeal; *rollo*, pp. 255-256.

² Penned by Associate Justice Marlene Gonzales-Sison, with the concurrence of Associate Justices Nina G. Antonio-Valenzuela and Geraldine C. Fiel-Macaraig; *id.* at 3-21.

³ Penned by Judge Racquelen Abary-Velasquez; *CA rollo*, pp. 57-76.

⁴ *Id.* at 59.

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After a series of surveillance, the confidential informant again reached out to Director Fajardo to relay that the group of Chun have incoming stocks of methamphetamine hydrochloride or more commonly known as *shabu*. The confidential informant was tasked to look for buyers. For this reason, the PDEA-SES and PNP-AIDG units regrouped to organize a buy-bust operation. SPO3 Ronald C. Parreño (Parreño) and IO1 Paolo Ricarte were designated as *poseur*-buyers.⁵

On December 9, 2015, the confidential informant relayed to the authorities that Chun wanted to meet the buyer. Later that afternoon, SPO3 Parreño and the confidential informant met with Chun at Uniwide Coastal Mall in Tambo, Parañaque, where the parties agreed on the sale of two kilograms of *shabu* for ₱2,000,000.00. Chun instructed SPO3 Parreño to wait for his advice when and where the sale will take place.⁶

At 12:00 p.m. of December 12, 2015, the confidential informant called SPO3 Parreño, relaying that Chun will meet the buyer for the transaction at 3:00 p.m. at Macapagal Boulevard corner Marina Bay Boulevard, Parañaque City. Chun was to arrive at the designated place when he is advised by the confidential informant to proceed to the location. The buy-bust team leader prepared the authority to operate with control number 50000-122015-038⁷. The buy-bust team also prepared the marked money, a ₱1,000.00 bill, to be placed over a stack of boodle money.⁸

Around 2:00 p.m. of the same day, the buy-bust team operatives arrived and positioned themselves at a distance from the designated location. One hour later, SPO3 Parreño and the confidential informant were at the agreed location onboard a Toyota Vios. The confidential informant called Chun on the cellphone. Minutes later, Chun arrived onboard a Chevrolet Tahoe with plate number ZKV521 and parked in front of the Toyota Vios. After the confidential informant briefly conversed with Chun over the phone, Chun alighted from his vehicle and boarded the Toyota Vios. Chun asked for the money from SPO3 Parreño. The officer showed a brown paper bag containing the boodle money. Chun then alighted from the Toyota Vios and instructed SPO3 Parreño to follow him with the bag of money. Chun boarded his car on the driver's seat side and SPO3 Parreño waited outside the vehicle. Chun then opened the window and handed to the officer a gray eco

⁵ *Rollo*, p. 5.

⁶ *Id.*

⁷ *Records*, p. 72.

⁸ *Id.* at 95.

bag in exchange for the money. As Chun and SPO3 Parreño made the exchange, the back-up members from the buy-bust team, onboard their motorcycles, immediately and simultaneously moved towards the location of the crime. Chun then sped-off nearly dragging SPO3 Parreño, who was unable to execute the pre-arranged signal. A car chase took place, but Chun failed to evade the officers. The buy-bust team blocked Chun along Coral Way Drive, in Pasay City.⁹

After arrest, IO1 Rowell Te (IO1 Te), one of the arresting officers, ordered Chun to board the Chevrolet Tahoe. Right after leading Chun to board the back seat of the vehicle, IO1 Te then noticed a gym bag and exclaimed, "*Sir, may bag pa.*"¹⁰ The buy-bust team did not touch the gym bag. Under the instructions of PINSP Bacía, the team proceeded to the PDEA National Headquarters in Quezon City with Chun and all items recovered from that afternoon. A member from the buy-bust team drove the Chevrolet Tahoe. Seated at the back-passenger seat was Chun, who was in between IO1 Te and *poseur*-buyer SPO3 Parreño. SPO3 Parreño also had custody of the seized items from the buy-bust operation the entire drive from Pasay City to the PDEA headquarters in Quezon City. It was already around 4:00 p.m. when the buy-bust team left the place of arrest.¹¹

About 6:00 p.m., the buy bust team arrived the PDEA Headquarters. The Chevrolet Tahoe was parked in the PDEA grounds. Investigator SPO2 Angelito A. Aguilan (SPO2 Aguilan) then prepared the invitation for the witnesses in the conduct of the marking, photographing and inventory-taking of the seized items. Meanwhile, *poseur*-buyer SPO3 Parreño had physical custody of the items seized from the buy-bust operation, and IO1 Te, with other members of the buy-bust team, waited outside the PDEA office with Chun. IO1 Te positioned himself about five meters from the parked Chevrolet Tahoe, which holds the gym bag discovered earlier.¹²

On or about 9:00 p.m., the representative from the Department of Justice (DOJ) and the elected public official arrived the PDEA Headquarters as witnesses for the marking, inventory and photographing of the seized items.¹³ The prosecution claimed that the witnesses were directed to IO1 Te and Chun for the opening of the gym bag inside the Chevrolet Tahoe. Before proceeding to open the

⁹ CA rollo, pp. 61-62.

¹⁰ TSN dated April 13, 2016, p. 45.

¹¹ CA rollo, p. 62.

¹² Id. at 63.

¹³ Rollo, p. 76.

bag, IO1 Te sought for Chun's consent. Chun nodded, which IO1 Te interpreted as signifying approval. After opening the gym bag, IO1 Te saw a white paper bag with the label "Lacoste." Upon further inspection of the contents of the white paper bag, IO1 Te discovered eight transparent plastic bags containing white crystalline substance. The gym bag and its contents were then brought inside the PDEA office.¹⁴

In the presence of Chun and the witnesses, SPO3 Parreño and IO1 Te simultaneously marked and inventoried the seized items from the buy-bust operation and the eight transparent plastic bags recovered from the gym bag.¹⁵ The eight transparent plastic bags were marked by IO1 Te accordingly as "PACK 1," "PACK 2" and so on. Each of the eight plastic bags were also marked "BUY-BUST SUSPECT: CHIU CHIEN CHUN a.K.a. CHIU/ a.K.a. QUI JIAN JUN 3:15 PM DECEMBER 12, 2015 ALONG DIOKNO BLVD. CORNER CORAL WAY MALL OF ASIA ARENA BRGY. 76, PASAY CITY R.T."¹⁶ All eight transparent plastic bags bore the signature of IO1 Te and were photographed.¹⁷

The seized items from the buy-bust operation and search of vehicle were turned over to SPO2 Aguilan, who prepared the laboratory examination requests.¹⁸ On December 13, 2015, SPO2 Aguilan submitted the items for forensic qualitative and quantitative examination.¹⁹ The results in Chemistry Report No. PDEA-0015266²⁰ stated that the seized items from the buy-bust operation and from the Chevrolet Tahoe tested positive for methamphetamine hydrochloride.²¹ The eight plastic bags from the vehicle weighed a total of 7,456 grams with seven plastic bags weighing over 900 grams and one bag weighing over 800 grams.²² Thereafter, Chun was indicted separately for illegal sale of dangerous drugs under Article II, Section 5 of R.A. 9165 before the Regional Trial Court (RTC) of Parañaque City, Branch 274²³ and for illegal possession of dangerous drugs under Article II, Section 11 before the RTC of Pasay City,

¹⁴ TSN dated April 13, 2016, pp. 45-47.

¹⁵ Records, pp. 92-94.

¹⁶ Id. at 91.

¹⁷ Id.

¹⁸ TSN dated June 8, 2016, p. 39.

¹⁹ Records, p. 39.

²⁰ Id.

²¹ Id.

²² Id.

²³ Penned by Acting Presiding Judge Betlee-Ian J. Barraquias; *rollo*, p. 63.

Branch 116.²⁴ The Information²⁵ for the illegal possession of dangerous drugs reads:

The undersigned Associate Prosecution Attorney II of the Department of Justice hereby accuses **CHIU CHIEN CHUN a.k.a. QUI JIAN JUN** with violation of Section 11, Article II of RA 9165 committed as follows:

That on or about the 12th day of December, 2015 along Diokno Boulevard corner Coral Way, Mall of Asia Arena, Brgy. 76, Pasay City Philippines, and within the jurisdiction of this Honorable Court, the above-named accused not being authorized by law to possess any dangerous drug, did then and there knowingly, willfully, unlawfully and feloniously have in his possession, control and custody a **total net weight of seven thousand four hundred and fifty six (7,456) grams of Methamphetamine Hydrochloride**, a dangerous drug, contained in 8 transparent self-sealed plastic bags weighing 935.7 grams, 935.7 grams, 923.9 grams, 974.6 grams, 908.5 grams, 861.0 grams, 949.7 grams, 966.9 grams, respectively²⁶.

CONTRARY TO LAW. (Emphasis supplied)

Chun, on the other hand, argued that no buy-bust operation took place. On or about 3:00 p.m. of December 12, 2015, Chun drove to SM Mall of Asia to meet his friend Michael Lee. Suddenly, another vehicle collided with his car at the right front side. A man came out from the vehicle pointing a gun at him. Startled by the events, Chun submitted himself to the man holding the gun as he was pulled out from his car. Another man came out from the same vehicle that collided with Chun's car. The men began rummaging through Chun's car but the search yielded no results. Thereafter, the man with the gun boarded on the driver's seat of Chun's car. The second man led Chun to the back-passenger seat and sat with Chun. A few hours later, Chun was brought to the PDEA headquarters. He denied having a gym bag inside his car. He also claimed that he was not provided any interpreter to assist him.²⁷

²⁴ Records, p. 1.

²⁵ Id.

²⁶ Id.

²⁷ *Rollo*, pp. 71-72.

Ruling of the Regional Trial Court

After trial, the RTC, in a Decision²⁸ dated July 3, 2017, found Chun guilty for illegal possession of dangerous drugs. The court *a quo* refused Chun's defense that he was framed-up and that the gym bag containing illegal drugs belonged to another accused by the name Reyniel Macahidhid, who is being indicted in a different criminal case. While the alleged owner of the gym bag was presented as a witness for the defense, the RTC remained unconvinced holding that there was failure to show identifying marks on the gym bag to conclude that it belonged to another person and not Chun. In addition, there was no showing of any improper or ill-motive on the part of the officers to testify against Chun for such heinous crime. The RTC also found that the prosecution sufficiently proved the elements of illegal possession of dangerous drugs. The court *a quo* upheld Chun's arrest and seizure of the illegal drugs. The chain of custody over the seized items was not broken. The identity and integrity of the items recovered were sufficiently maintained and secured from contamination. Thus, Chun was sentenced the penalty of life imprisonment and made to pay a fine amounting to ₱2,000,000.00.²⁹

Ruling of the Court of Appeals

Chun appealed the Decision with the Court of Appeals. In the assailed Decision³⁰ dated September 20, 2018, the CA affirmed the findings of the RTC. The CA remained unconvinced of Chun's position that no buy-bust operation took place. The barangay certificate stating the absence of any PDEA or PNP operations in the area on December 12, 2015 did not persuade the CA.³¹ The CA also did not lend credence to Chun's assertion that another accused from a different criminal case owned the bag containing illegal drugs. Even assuming the bag belonged to another person, the indubitable detail is that it was recovered from Chun. His possession alone is decisive.³²

Anent compliance with Section 21 of R.A. 9165 or the rule of chain of custody of the seized illegal drugs, the CA held that the chain of custody was not broken. Ideally, the conduct of marking, photographing, and inventory-taking of the seized items should be done at the time and place of the arrest. However, to conduct the

²⁸ Supra note 3.

²⁹ CA rollo, pp. at 67-76.

³⁰ Supra note 2.

³¹ Rollo, pp. 19-20.

³² Id. at 10-11.

foregoing procedures at the police station or the office of the apprehending team still reasonably qualifies as “immediate confiscation”³³ so long as the integrity of the drugs as evidence remains unimpaired. The prosecution sufficiently established compliance with the documenting procedures provided in Section 21 of R.A. 9165, albeit, that the same were performed at the PDEA headquarters. The prosecution’s evidence, through testimonial and documentary evidence, showed that the marking, photographing and inventory-taking were conducted before the DOJ representative, the elected public official, and in the presence of the accused. The absence of a media representative is not detrimental to the chain of custody.³⁴

Finally, the CA denied Chun’s defense of an illegal arrest. Chun’s warrantless arrest and the search of the vehicle came about as a result of a sanctioned entrapment. Further, there was evidence proving that Chun had been apprised of his rights and was proficient in communicating in English throughout his coordination with the confidential informant and SPO3 Parreño on the sale of illegal drugs.³⁵

Chun appealed the foregoing CA decision with this Court. In an order³⁶ dated August 28, 2019, this Court ordered the parties to file their respective supplemental briefs to the appeal. The People of the Philippines, through the Office of the Solicitor General, filed a Manifestation in Lieu of a Brief,³⁷ stating that all its arguments have been exhaustively discussed in its Appellee’s Brief³⁸ filed with the CA.

Meanwhile, the RTC of Parañaque City, Branch 274 rendered its Decision³⁹ dated November 8, 2019 acquitting Chun from the charge of illegal sale of dangerous drugs under Section 5 of R.A. 9165. The RTC held that the chain of custody was not established for failure of the prosecution to show that precautions were taken by the operatives to ensure that there had been no change in the condition of the seized items from the buy-bust operation. The RTC found it unbelievable that *poseur*-buyer SPO3 Parreño merely held unto the seized items for seven hours from the time of the buy-bust operation,

³³ Id. at 13-14.

³⁴ Id. at 11-18.

³⁵ Id. at 18-19.

³⁶ Id. at 31-32.

³⁷ Id. at 95-96.

³⁸ CA *rollo*, pp. 93-117.

³⁹ *Rollo*, pp. 63-92.

the car chase and later the arrival of the DOJ representative and elected public official at the PDEA headquarters. SPO3 Parreño neither sealed the items upon seizure nor immediately placed markings to distinguish it from other evidence. Provisions of Section 21 of R.A. 9165 had not been complied by the buy-bust team. The RTC found no justifiable grounds for failure of the officers in conducting the marking, inventory and photographing of the seized items at the place of Chun's arrest. The RTC stressed that it took several hours later from the time of the buy-bust operation to conduct the foregoing procedures before the required witness. The witnesses could have been made present at the operation considering that the operatives conducted a series of surveillance on Chun and later agreed, through its *poseur*-buyer, to schedule a transaction for the purchase of illegal drugs from the accused. In fine, the officers had enough time and opportunity to bring the required witnesses at the buy-bust operation.⁴⁰ Furthermore, there were no photographs of the marked seized items from the buy bust operation. The RTC held that it was prevented from identifying whether the seized items were actually those from the buy-bust operation or those retrieved from the gym bag inside Chun's vehicle. The RTC also found contradictions on the documentary records and testimony of the *poseur*-buyer on the location of buy-bust operation.⁴¹ *Poseur*-buyer SPO3 Parreño testified that the sale took place 'along Macapagal Avenue, corner Marina Bay Boulevard, Barangay Dongalo, Parañaque,'⁴² while the marked seized items, Request for Laboratory Examination, Chemistry Report, Turn-over of Seized Evidence, Spot Report, the Receipt/Inventory of Property Seized, all indicate that the buy-bust operation was conducted along "Diokno Boulevard corner Coral Way, Mall of Asia Arena, Brgy. 76, Pasay City."⁴³ The RTC held that observance of the links in the chain of custody over the *corpus delicti* was mismanaged.⁴⁴

On December 17, 2019, Chun filed his Supplemental Brief⁴⁵ to the instant case and reiterated that no buy-bust operation took place. The entire operation led by Director Fajardo and PINSP Bacia deserves no credence because said officers were implicated by Philippine President Rodrigo Roa P. Duterte as involved in illegal drugs.⁴⁶ They are known to recycle illegal drugs and use the same for

⁴⁰ Id. at 74-81.

⁴¹ Id. at 87-91.

⁴² TSN dated February 29, 2016, p. 23.

⁴³ See records, p. 91; see also id. at 36-39, 67-68, 77.

⁴⁴ *Rollo*, pp. 80-81.

⁴⁵ Id. at 34-60.

⁴⁶ Id. at 35-37.

their illegal activities.⁴⁷ Hence, the gym bag containing illegal drugs allegedly retrieved from Chun's Chevrolet Tahoe could have been recycled or taken from other drug criminal cases. In fact, Chun was able to present as witness the true owner of the bag, who is being tried in a different criminal case. The witness admitted ownership of the bag and testified that the gym bag was seized from him at an earlier time on the same day of Chun's arrest.⁴⁸

Chun also argued that his arrest is illegal. He was not apprised in his native language of his rights throughout the time at the PDEA headquarters. Neither was he informed of the incidents, the nature and cause of accusation against him. Chun argued that there was a clear violation of Republic Act No. 7438⁴⁹ or the law defining certain rights of persons arrested, detained or under custodial investigation.⁵⁰

Finally, Chun prays for his acquittal because the chain of custody was not observed in accordance with Section 21 of R.A. 9165. Marking of the seized items and other standard procedures must take place immediately upon confiscation and in the presence of the accused. Chun argues that there was failure on the part of the officers to provide justifiable reasons in conducting the marking, photographing and inventory-taking of the seized items at the PDEA Headquarters. Further, the integrity of the seized items is questionable because the officers were not even initially aware of the contents of the bag when the same was brought to PDEA headquarters. No corroborating witness or evidence was presented showing the chain of custody over the vehicle and gym bag supposedly containing the illegal substance.⁵¹ Relatedly, Chun attached a certified true copy of the Decision dated November 8, 2019 of the RTC of Parañaque City, Branch 274, where he was acquitted from the criminal charge for illegal sale of dangerous drugs due to the broken chain of custody.⁵²

Ruling of the Court

Section 21 of R.A. 9165 sets out the procedures on custody and

⁴⁷ Id. at 42-45.

⁴⁸ Id. at 45.

⁴⁹ An Act Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation as well as Duties of the Arresting, Detaining and Investigating Officers and Providing Penalties for Violating thereof.

⁵⁰ *Rollo*, pp. 56-59.

⁵¹ Id. at 47-50, 57-59.

⁵² *Supra* note 39.

disposition of confiscated or seized dangerous drugs. R.A. 10640,⁵³ which amended certain provisions of Section 21 of R.A. 9165, became effective on August 7, 2014. Because this case took place on December 12, 2015, the rule on chain of custody provided in R.A. 10640 is applicable. The procedures under the law is simplified as four links in the chain of custody which are: *first*, seizure of the illegal drugs or items from the accused to the apprehending officers; *second*, transfer of the seized illegal drugs or items from the apprehending officers to the investigating officers; *third*, transfer of the seized illegal drugs or items from the investigating officers to the forensic chemists; and *fourth*, transfer of the seized illegal drugs or items from the forensic chemists to the courts.⁵⁴ Each transfer from one link to another have specific procedures under the dangerous drugs law in order to ensure integrity of the seized items. Non-compliance with them tarnishes the credibility of the *corpus delicti*.⁵⁵

Aside from denying that a buy-bust operation took place, Chun questions the first link of the chain of custody arguing that the officers failed to observe the procedures on the seizure, marking, inventory and photographing of the subject illegal drugs.⁵⁶ Under R.A. 10640, the marking, physical inventory and photographing of the seized items by the apprehending team shall be conducted immediately after seizure and confiscation, and in the presence of the accused or the person from whom such items were confiscated or seized, or his/her representative or counsel. The law also requires that the foregoing be witnessed by at least two of the following persons, namely: (a) an elected public official; and (b) a representative of the National Prosecution Service or the media. The foregoing procedures should be strictly observed, more so, when there is a planned activity, like a buy-bust operation.

The officers recovered the eight plastic bags as an incident of the arranged buy-bust operation. Thus, We can reasonably expect that procedures on the chain of custody under the Dangerous Drugs Law be observed by the apprehending officers. However, We find that the buy-bust team poorly mishandled the evidence as there were several lapses in their conduct of the seizure and custody of the items.

⁵³ 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"

⁵⁴ *People v. Que*, 824 Phil. 882, 895 (2018), citing *People v. Nandi* 639 Phil. 134, 144-145 (2010).

⁵⁵ *Id.* at 896.

⁵⁶ *Rollo*, pp. 47-48.

From the facts, IO1 Te found a gym bag inside Chun's vehicle after the arrest of Chun from a car chase. The officer suspected the bag to contain contraband.⁵⁷ Yet, instead of immediately opening the gym bag at the place of arrest, the buy-bust team proceeded to the PDEA headquarters in Quezon City with said gym bag and the seized items from the buy-bust operation.⁵⁸ We emphasize that the initial links in the chain of custody begin with the seizure and immediate marking of the items.⁵⁹ This step is vital as it forestalls switching, planting or contamination of evidence. The marking of seized items operates to identify and set apart the dangerous drugs or related items from other material the moment they are confiscated until they are disposed of at the close of the criminal proceedings.⁶⁰ Here, the officers did not immediately mark the evidence. As discussed, the team confiscated the gym bag without knowledge of its contents and brought the same to the PDEA headquarters. We find no detailed testimony or account on who kept guard of the gym bag inside Chun's vehicle during the two-hour drive from the place of arrest to the PDEA headquarters. Moreover, *poseur*-buyer SPO3 Parreño was also onboard said vehicle, during the drive to PDEA headquarters, carrying with him the seized items from the buy-bust operation, which were also not marked at such time. The Decision⁶¹ dated November 8, 2019 of the RTC of Parañaque City, Branch 274, acquitting Chun for the illegal sale of dangerous drugs, also found SPO3 Parreño's failure to immediately mark the items subject of said case after Chun's arrest. The apprehending team's failure to observe the initial link in the chain of custody renders the purpose of immediately marking evidence futile. To a reasonable mind, the unrecorded movements of the apprehending team opened possibilities of polluting the integrity of the *corpus delicti*, even more, the planting of evidence against the accused.

Our rules allow marking, inventory and photographing to be conducted in other locations than the place of arrest. However, the locations are limited to the nearest police station or the nearest office of the apprehending team, whichever is practicable.⁶² Furthermore, there must be justifiable grounds in observing the foregoing

⁵⁷ CA rollo, pp. 43-44.

⁵⁸ Id. at 62.

⁵⁹ Supra note 54.

⁶⁰ *People v. Ismael*, 806 Phil. 21, 31-32 (2017), citing *People v. Gonzales*, 708 Phil. 121, 130-131 (2013).

⁶¹ Supra note 39.

⁶² Guidelines on the Implementing Rules and Regulations of Section 21 Of Republic Act No. 9165, as amended by Republic Act No. 10640.

procedures at the designated locations other than the place of arrest.⁶³ Here, We find that the officers brought both the gym bag and the seized items from the buy bust operation to the PDEA headquarters solely under the instruction of PINSP Bacia.⁶⁴ We find no accounts of danger or threat to the safety of the officers and community if the procedures on seizure and custody were observed at the place of arrest.

Assuming that there were justifiable grounds and that the PDEA headquarters in Quezon City is the most practicable location, to Our mind, conduct of the marking, inventory and photographing of the seized items should have been done immediately after the team arrived at the PDEA headquarters in the presence of Chun and the required witnesses. To reiterate, the items subject of this case were seized as an incident of an arranged buy-bust operation. Considering that a buy-bust operation is a planned activity, the operatives have time and opportunity to prepare for the operation and invite the required witnesses.⁶⁵ Facts show that as of December 9, 2015, the buy-bust team knew that there will be an illegal drug transaction with Chun. Although there was no exact date of the transaction at that moment,⁶⁶ the officers could have already sent out invitations to the witnesses to be on standby for the expected entrapment operation. The buy-bust team had also been informed by the confidential informant three hours prior the illegal drug transaction of the exact location for the sale.⁶⁷ To Our mind, the three-hour period is reasonable time for the officers to invite the required witness to already be on standby at the PDEA headquarters. Here, We find that the officers prepared and sent out the invitations for the witnesses after arrival of the apprehending team at the PDEA headquarters and hours later after Chun's arrest.⁶⁸ We stress that the importance of the presence of the witnesses is to insulate against the police practice of planting evidence.⁶⁹ This is especially true in cases where there is a question as to whether or not a buy-bust operation actually took place as in this case. Here, the witnesses could not have served their purpose. In view of the delayed preparation and sending out of invitations to the witnesses, they, namely the DOJ representative and elected public official, arrived at the PDEA headquarters past 9:00 p.m. or about three hours later from the arrival of the apprehending team at the

⁶³ Section 21(1) of Republic Act No. 10640.

⁶⁴ TSN dated April 13, 2016, p. 50.

⁶⁵ *People v. Tomawis*, 830 Phil. 385, 405 (2018).

⁶⁶ *CA rollo*, p. 60.

⁶⁷ *Id.* at 61.

⁶⁸ TSN dated June 8, 2016, pp. 35-36.

⁶⁹ *Supra* note 65.

PDEA headquarters.⁷⁰ Undoubtedly, the witnesses had no personal knowledge of the buy-bust operation, the car chase, the arrest of Chun and the proper custody over the gym bag and seized items from buy-bust operation.

What is critical in drug cases is not the bare conduct of inventory, marking, and photographing. Instead, it is the certainty that the items allegedly taken from the accused retain their integrity, even as they make their way from the accused to an officer effecting the seizure, to an investigating officer, to a forensic chemist, and ultimately, to courts where they are introduced as evidence⁷¹. In this case, We have Our doubts as to the identity and integrity of the seized illegal drugs. Further, reading from the Decision⁷² dated November 8, 2019 of the RTC of Parañaque City Branch 274, which acquitted Chun from the charge for illegal sale of dangerous drugs, We find the conduct of the buy-bust operation and the ensuing car chase after the alleged buy-bust against Chun highly questionable. The buy-bust money used to purchase ₱2,000,000.00 worth of illegal drugs only consisted of one genuine ₱1,000.00 bill placed a top of boodle money contained in a brown paper bag.⁷³ In addition, We find *poseur*-buyer SPO3 Parreño's narration unbelievable that Chun would immediately agree to accept the brown paper bag without being shown its contents, or being able to count the large sum of money.⁷⁴ To restate, Conviction cannot be sustained if there is a persistent doubt on the identity of the drug. The identity of the prohibited drug must be established with moral certainty.⁷⁵ What is clearly established here is that the prosecution failed to convince Us that planting, tampering, alteration, or substitution of substance in the initial link in the chain of custody is unlikely. The officers cannot conveniently claim the presumption of regularity in the performance of their duties. The presumption should arise only when there is a showing that the apprehending officer or buy-bust team followed the requirements of Section 21, or when the saving clause may be properly applied.⁷⁶ From the discussions above, there was blatant failure to observe procedures set out by the law on dangerous drugs and its implementing rules. Thus, the presumption will not apply.

WHEREFORE, the appeal is **GRANTED**. The assailed

⁷⁰ TSN dated June 8, 2016, p. 7.

⁷¹ Supra note 55 at 909.

⁷² Supra note 39.

⁷³ Records, p. 95.

⁷⁴ TSN dated April 4, 2016, p. 17.

⁷⁵ *People v. Hementiza*, 807 Phil. 1017, 1038 (2017).

⁷⁶ Supra note 65 at 419-420.

Decision dated September 20, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09764 affirming the Decision dated July 3, 2017 of the Regional Trial Court of Pasay City, Branch 116, is **REVERSED** and **SET ASIDE**. Accused-appellant Chiu Chien Chun also known as “Qui Jian Jun” is **ACQUITTED** on reasonable doubt. Accordingly, the Court **ORDERS** the **IMMEDIATE RELEASE** of accused-appellant, unless he is being lawfully held for another cause and to **INFORM** the Court of the date of his release, or reason for his continued confinement within ten (10) days from receipt of notice of this Resolution.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
206-C

The Solicitor General
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Makati Ave., 1200 Makati

The Presiding Judge
Regional Trial Court, Branch 116
1300 Pasay City
(Crim. Case No. R-PSY-16-1103)

The Director General (x)
Bureau of Corrections
1770 Muntinlupa City

UR

JLP

