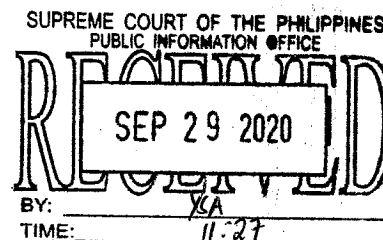




Republic of the Philippines
Supreme Court
Manila



THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **June 10, 2020**, which reads as follows:

“G.R. No. 240338 (JANET RENDAL y SALASIBAR, petitioner v. PEOPLE OF THE PHILIPPINES, respondent).— Noncompliance with the chain of custody rule cannot be simply brushed aside by the presumption of regularity in the performance of official functions. The failure to comply is already affirmative proof of irregularity.

This Court resolves the Petition for Review on *Certiorari*¹ questioning the Decision² and Resolution³ of the Court of Appeals, which affirmed with modification the Regional Trial Court Judgment⁴ finding Janet Rendal y Salasibar (Rendal) guilty of violating Section 11 of Republic Act No. 9165.

In an Information dated December 29, 2015, Rendal was charged with the crime of illegal possession of dangerous drugs, as follows:

On or about December 27, 2015, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously have in her possession, custody and control one (1) heat-sealed transparent plastic sachet containing 0.03 gram of white crystalline substance, which was found positive to the tests for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.⁵

¹ Rollo, pp. 11–28.

² Id. at 30–41. The Decision dated January 16, 2018 was penned by Associate Justice Renato C. Francisco, and concurred in by Associate Justices Japar B. Dimaampao and Rodil V. Zalameda (now a member of this Court) of the Seventh Division of the Court of Appeals, Manila.

³ Id. at 43–44. The Resolution dated June 20, 2018 was penned by Associate Justice Renato C. Francisco, and concurred in by Associate Justices Japar B. Dimaampao and Rodil V. Zalameda (now a Member of this Court) of the Former Seventh Division of the Court of Appeals, Manila.

⁴ Id. at 58–63. The Judgment was penned by Presiding Judge Jennifer Albano Pilar of the Regional Trial Court of Pasig City, Branch 164.

⁵ Id. at 31.

Rendal pleaded not guilty to the charge during her arraignment. A mandatory pre-trial conference was then conducted, followed by trial on the merits.⁶

The prosecution presented as its witness Jail Officer 1 Melanie P. Ambrosio (JO1 Ambrosio),⁷ the assigned searcher at the Pasig City Bureau of Jail Management and Penology (City Jail) on December 27, 2015.⁸

According to JO1 Ambrosio, at around 10:00 a.m. that day, Rendal arrived at the City Jail to visit her detained husband. Before entering, Rendal's belongings were mandatorily searched. Upon the inspection of her coin purse, JO1 Ambrosio discovered a plastic sachet containing what she suspected to be shabu, prompting her to call in the other jail officers who then suspected the same. At this, JO1 Ambrosio confiscated the suspected shabu and coin purse from Rendal and placed them in her right pocket. She then arrested Rendal, informed her of her violation and constitutional rights, and brought her to the jail office.⁹

JO1 Ambrosio held Rendal in custody at the jail office. Hours later,¹⁰ Kagawad Eram B. Monson, Jr. (Kagawad Monson) arrived and was informed of the arrest. In front of him, JO1 Ambrosio conducted the inventory of the seized items. Afterward, Rendal, JO1 Ambrosio, and Kagawad Monson signed the Certificate of Inventory of Seized Item, confirming that the inventory was conducted in their presence. JO1 Ambrosio then marked the plastic sachet with MPA/JSR 12-27-15 and wrote her signature beside the mark.¹¹ Pictures were also taken during the inventory.¹²

Afterward, JO1 Ambrosio brought Rendal to the Pasig City Station Anti-Illegal Drugs Special Operation Task Group Office, where she informed Police Officer 3 Rex G. Baygar (PO3 Baygar) of the arrest's details. PO3 Baygar at once prepared the Chain of Custody Form, Request for Laboratory Examination, and Request for Drug Test. Rendal was then medically examined at the Rizal Medical Center.¹³

Thereafter, JO1 Ambrosio submitted the documents and seized items to the Eastern Police District Crime Laboratory in Mandaluyong City.¹⁴ These

⁶ Id.

⁷ Id. The testimonies of Police Chief Inspector Rhea Fe DC. Alviar and PO3 Rex G. Baygar were dispensed with after the prosecution and the defense entered into a stipulation of facts. (see *rollo*, pp. 58-59, RTC Decision).

⁸ Id. at 59.

⁹ Id. at 59-60.

¹⁰ Id. at 70.

¹¹ Id. at 60.

¹² Id. at 32 and 60.

¹³ Id. at 32.

¹⁴ Id. at 32 and 60.

were received by Police Chief Inspector Rhea Fe DC. Alviar, a forensic chemist, who then examined the substance in the plastic sachet. The specimen yielded positive for shabu.¹⁵

Upon being notified of the test results, JO1 Ambrosio returned to the Station Anti-Illegal Drugs Special Operation Task Group Office and executed her *Sinumpaang Salaysay ng Pag-aresto*. Afterward, Rendal was brought for inquest.¹⁶

During court proceedings, JO1 Ambrosio confirmed that it was from Rendal whom she confiscated the plastic sachet containing shabu, bearing her markings MPA/JSR 12-27-15.¹⁷

The prosecution also offered the following documents as evidence:

Exhibit "A", Inque[s]t-Referral, dated December 28, 2015; Exhibit "B", Sinumpaang Salaysay Ng Pag-Aresto of PO1 Melanie P. Ambrosio; Exhibit "C", Inventory of Seized Evidence; Exhibit "D", Chain of Custody Form; Exhibit "E", Request for Laboratory Examination, dated December 27, 2015; Exhibit "F", green copy of Physical Sciences Report No. D-685-15E; Exhibits "G"[,] "G-1" to "G-3", photographs depicting the conduct of inventory; . . . Exhibit "H", photograph depicting the arresting officer holding a coin purse; Exhibit "H-1", photograph depicting a coin purse; Exhibit "J", white copy of Physical Sciences Report No. D-658-15E; Exhibit "J", improvised plastic container containing Exhibit "K"; and Exhibit "K", transparent plastic sachet containing white crystalline substance with markings MPA/JSR 12-27-15 & signature.¹⁸

By way of defense, Rendal denied the allegations against her.¹⁹

She testified that at around 9:00 a.m. that day, she went to the City Jail with her five children to visit her husband. Before entering, she surrendered her bag, along with the food she brought for her husband, to JO1 Ambrosio for a mandatory search. While her belongings were being inspected, she underwent body frisking.²⁰

After the body search, Rendal went back to JO1 Ambrosio and saw that her bag's contents were already exposed. She also noticed the jail searcher holding a white piece of paper. When she asked JO1 Ambrosio about the white paper, the searcher gave no reply.²¹

¹⁵ Id. at 60.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 60-61.

¹⁹ Id. at 61.

²⁰ Id.

²¹ Id.

Instead, JO1 Ambrosio went on to unwrap the paper, revealing a plastic sachet inside, and proceeded to inquire Rendal about it. Surprised, Rendal reiterated that JO1 Ambrosio has yet to answer her question about the white paper. She was nonetheless taken into custody.²²

Rendal was informed that a case would be filed against her. That afternoon, she was brought inside an office where she was investigated and documents were prepared. Rendal was then sent to the motorpool, and later, to Mandaluyong City, where she was made to undergo a drug test. She was detained after, and when she was brought for inquest, she learned about the charge against her.²³

The Regional Trial Court found Rendal guilty as charged in its October 6, 2016 Judgment.²⁴ It disposed as follows:

WHEREFORE, premises considered, the court finds accused JANET RENDAL y SALASIBAR **GUILTY** beyond reasonable doubt for violation of Section 11, Article II of RA No. 9165, and hereby imposes upon her an indeterminate penalty of imprisonment from **twelve (12) years and one (1) day, as the minimum term, to fifteen (15) years, as the maximum term, and to pay a fine of three hundred thousand pesos (P300,000.00).**

The sachet of *shabu* subject matter of the instant case is hereby ordered confiscated, and the Branch Clerk of this Court is ordered immediately transmit the said item to the Philippine Drug Enforcement Agency for destruction.

SO ORDERED.²⁵ (Emphasis in the original)

The Regional Trial Court found that the prosecution proved Rendal's guilt despite a failure to strictly comply with Section 21 of Republic Act No. 9165, as amended. It held that the absence of representatives from the media or the National Prosecution Service during the physical inventory and marking was excusable. To the trial court, what mattered was that the prosecution ascertained the seized drug's identity from its seizure up to its presentation in court through JO1 Ambrosio's testimony.²⁶

On appeal before the Court of Appeals, Rendal argued that the officers failed to comply with Section 21, as shown by the absence of media or National Prosecution Service representatives during the inventory and the marking not being done at the place of seizure.²⁷

²² Id. at 33 and 61.

²³ Id.

²⁴ Id. at 58-63.

²⁵ Id. at 63.

²⁶ Id. at 62.

²⁷ Id. at 52.

Rendal further alleged a broken chain of custody in the way the marking was only done “seven (7) hours” after the alleged incident,²⁸ and only after the inventory had been accomplished and duly signed.²⁹ She also faulted JO1 Ambrosio for keeping the seized item in her personal custody, putting it in her right pocket up until its inventory.³⁰

On the other hand, the prosecution insisted that it maintained an unbroken chain of custody over the seized item. It explained that JO1 Ambrosio did call in the required witnesses for the inventory, so their absence could not have been her fault. It also asserted that the item not being marked at the place of seizure was allowable since the integrity of the seized drug was still preserved.³¹

The Court of Appeals affirmed Rendal’s conviction but modified the penalty imposed. In its January 16, 2018 Decision,³² it disposed as follows:

WHEREFORE, premises considered, the appeal is **DENIED**. The Judgment dated 06 October 2016 of Branch 164, Regional Trial Court of Pasig City in Criminal Case No. 21000-D is **AFFIRMED with MODIFICATION**. Accused-appellant Janet Rendal y Salasibar is **SENTENCED** to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum to fourteen (14) years and eight (8) months as maximum.

SO ORDERED.³³ (Emphasis in the original)

In modifying the penalty, the Court of Appeals explained:

In this case, since the total weight of *shabu* obtained from appellant is only a minuscule amount of 0.03 gram, the RTC improperly imposed the penalty of twelve (12) years and one (1) day as minimum to fifteen (15) years as maximum. Taking into account the ruling in *Simon*, the range of the penalty of imprisonment for illegal possession of *shabu* involving 0.03 gram, which is less than 1.667 grams, is twelve (12) years and one (1) day as minimum to fourteen (14) years and eight (8) months as maximum. Hence, the penalty of imprisonment imposed by the RTC should be accordingly reduced. However, with regard to payment of fine, We find the amount of P300,000.00 imposed by the RTC in order.³⁴

²⁸ Id. at 55.

²⁹ Id. at 53.

³⁰ Id. at 54–55.

³¹ Id. at 74 and 78–80.

³² Id. at 30–41.

³³ Id. at 40.

³⁴ Id.

The Court of Appeals sustained the Regional Trial Court's ruling that the dangerous drug was indeed seized from Rendal and that its evidentiary value and integrity were preserved by the apprehending officers.³⁵

Rendal moved for reconsideration, but the Court of Appeals denied her Motion in its June 20, 2018 Resolution.³⁶ Hence, Rendal filed this Petition for Review on Certiorari³⁷ involving mixed questions of facts and law.

Petitioner alleges that the Court of Appeals gravely abused its discretion in affirming her conviction. She insists that the prosecution failed to comply with the requirements of Section 21 of Republic Act No. 9165, as amended, and to prove an unbroken chain of custody.³⁸ She maintains that certain irregularities—not all the necessary witnesses for the inventory were present; the marking was not done at the place of seizure and only after the inventory; and a gap existed between seizure and inventory—cast reasonable doubt on the integrity of the seized drug.³⁹

This Court required the Office of the Solicitor General, on behalf of respondent People of the Philippines, to comment on the Petition.⁴⁰

In its Manifestation,⁴¹ the Office of the Solicitor General prayed for the Petition's denial, arguing that no compelling reason exists for the reversal or modification of the Court of Appeals Decision.

The sole issue to be resolved here is whether petitioner Janet Rendal y Salasibar is guilty of illegal possession of drugs.

This Court reverses her conviction.

As a general rule, only questions of law can be raised in a petition for review on certiorari under Rule 45⁴² of the Rules of Court. This Court is not a trier of facts; our jurisdiction is limited to reviewing only errors of law that may have been committed by the lower courts.

³⁵ Id. at 37.

³⁶ Id. at 43–44.

³⁷ Id. at 11–28.

³⁸ Id. at 17–18.

³⁹ Id. at 19–22.

⁴⁰ Id. at 93.

⁴¹ Id. at 94–97.

⁴² RULES OF COURT, Rule 45, sec. 1 provides:

SECTION 1. *Filing of petition with Supreme Court.* — A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth[.]

The distinction between questions of law and questions of fact is explained in *Atty. Sarsaba v. Vda. de Te*.⁴³

There is a “**question of law**” when the doubt or difference arises as to what the law is on certain state of facts, and which does not call for an examination of the probative value of the evidence presented by the parties-litigants. On the other hand, there is a “**question of fact**” when the doubt or controversy arises as to the truth or falsity of the alleged facts. Simply put, when there is no dispute as to fact, the question of whether or not the conclusion drawn therefrom is correct, is a question of law.⁴⁴ (Emphasis in the original)

Review is not a matter of right, but of sound judicial discretion. This will be granted only for special and important reasons.⁴⁵ Thus, this Court may relax the rules in its discretion only when the exceptions fall under the grounds summarized in *Medina v. Mayor Asistio, Jr.*:⁴⁶

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioners’ main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.⁴⁷ (Citations omitted)

To warrant a review of factual matters, there must be a “showing that such findings are tainted with arbitrariness, capriciousness, or palpable error.”⁴⁸ In *Regalado v. People*,⁴⁹ this Court discussed:

⁴³ 611 Phil. 794 (2009) [Per. J. Peralta, Third Division].

⁴⁴ *Id.* at 804, citing *Cucueco v. Court of Appeals*, 484 Phil. 254, 264 (2004) [Per J. Austria-Martinez, Second Division].

⁴⁵ RULES OF COURT, Rule 45, sec. 6 provides:

SECTION 6. *Review Discretionary.* — A review is not a matter of right, but of sound judicial discretion, and will be granted only when there are special and important reasons therefor. The following, while neither controlling nor fully measuring the court’s discretion, indicate the character of the reasons which will be considered:

(a) When the court a quo has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or

(b) When the court a quo has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision.

⁴⁶ 269 Phil. 225 (1990) [Per J. Bidin, Third Division].

⁴⁷ *Id.* at 232.

⁴⁸ *Asiatico v. People*, 673 Phil. 74, 81 (2011) [Per J. Velasco, Jr., Third Division] citing *People v. Quiamanlon*, 655 Phil. 695 (2011) [Per J. Velasco, Jr., First Division].

⁴⁹ G.R. No. 216632, March 13, 2019, <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65041> [Per J. Leonen, Third Division].

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Generally, “the findings of fact by the trial court, when affirmed by the [Court of Appeals], are given great weight and credence on review.” This is because the trial court “is in the best position to assess the credibility of witnesses and their testimonies because of its unique opportunity to observe the witnesses, their demeanor, conduct and attitude on the witness stand.” Hence, this Court accords great respect to the trial court’s findings, especially when affirmed by the Court of Appeals. An exception is when either or both of the lower courts “overlooked or misconstrued substantial facts which could have affected the outcome of the case.”⁵⁰ (Citations omitted)

Here, an examination of the Regional Trial Court’s factual findings, as affirmed by the Court of Appeals, shows that petitioner was wrongly convicted. The lower courts overlooked the obvious irregularities that attended this case.

Section 11 of Republic Act No. 9165 punishes illegal possession of dangerous drugs. It states:

SECTION 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:

.....

(5) 50 grams or more of methamphetamine hydrochloride or “shabu”;

.....

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

(1) Life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or “shabu” is ten (10) grams or more but less than fifty (50) grams[.]

Accordingly, for the crime of illegal possession of dangerous drugs to be proven, the prosecution must show that: (1) the accused possesses an item or object identified to be a prohibited drug; (2) the possession is unauthorized by law; and (3) the accused was freely and consciously aware of being in possession of the drug.⁵¹

⁵⁰ Id.

⁵¹ *People v. De Jesus*, 703 Phil. 169, 189 (2013) [Per J. Leonardo-De Castro, First Division].

Of equal importance is the establishment of the *corpus delicti*, the body of the crime itself—which, in cases like this, is the drug itself. It is essential that the drug's identity be established with moral certainty to erase any unnecessary doubt. As explained in *Lopez v. People*:⁵²

In the prosecution of drug cases, it is of paramount importance that the existence of the drug, the *corpus delicti* of the crime, be established beyond doubt. To successfully prosecute a case involving illegal drugs, the identity and integrity of the *corpus delicti* must definitely be shown to have been preserved. This requirement necessarily arises from the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise. Thus, to remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused-petitioner.⁵³ (Citation omitted)

The identity of the seized dangerous drug may be established through compliance with the chain of custody rule. The chain of custody rule is defined in Section 1(b) of the Dangerous Drugs Board Regulation No. 01-02, which implements Republic Act No. 9165:

b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.⁵⁴

As discussed in *People v. Nandi*,⁵⁵ the chain of custody consists of four linked stages. In each of these, the prosecution must show that the seized item was safely kept and its integrity preserved:

[T]he following links should be established in the chain of custody of the confiscated item: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.⁵⁶ (Emphasis supplied)

⁵² 725 Phil. 499 (2014) [Per J. Perez, Second Division].

⁵³ Id. at 507.

⁵⁴ Dangerous Drugs Board Regulation No. 1 (2002), sec. 1(b).

⁵⁵ 639 Phil. 134 (2010). [Per J. Mendoza, Second Division].

⁵⁶ Id. at 144–145 citing *People v. Kamad*, 624 Phil. 289 (2010) [Per J. Brion, Second Division].

The chain of custody rule serves as a procedural safeguard to ensure the authenticity of the seized dangerous drug from its seizure until its presentation in court. When arresting officers commit unjustified breaches of the procedure, the integrity of the dangerous drug—the *corpus delicti*—is compromised.

This Court, therefore, cannot overlook the glaring gaps in the chain of custody rule that transpired in this case.

The Court of Appeals summarized the events to show that the integrity of the seized drug was supposedly preserved. It enumerated, in part:

1. Upon the discovery of the plastic sachet containing shabu, JO1 Ambrosio confiscated the item and informed appellant of her constitutional rights;
2. JO1 Ambrosio put the plastic sachet in her right pocket and brought it to their office where appellant was likewise held for custody;
3. *The inventory of seized item was then prepared by JO1 Ambrosio. Pictures were taken during the conduct thereof. Appellant, JO1 Ambrosio and Kagawad Monson signed the Certificate of Inventory of Seized Item;*
4. *JO1 Ambrosio marked the plastic sachet with “MPA/JSR 12-27-15” and then placed her signature beside the mark[.]*⁵⁷ (Emphasis supplied)

JO1 Ambrosio’s testimony revealed that she did not *immediately* mark the seized item upon its confiscation or upon bringing the seized item and petitioner to the jail office. Instead, by the prosecution’s own estimate, she still waited for Kagawad Monson to arrive at around 3:00 p.m.—five hours from the moment of confiscation.⁵⁸ Only then did the jail officer mark and inventory the seized drug.

The immediate marking after seizure, the initial link in the chain of custody, is crucial in ensuring the integrity of the seized drug. In *People v. Coreche*,⁵⁹ this Court discussed the importance of this step:

Crucial in proving chain of custody is the marking of the seized drugs or other related items *immediately after* they are seized from the accused. Marking after seizure is the starting point in the custodial link, thus it is vital that the seized contraband are immediately marked because succeeding handlers of the specimens will use the markings as reference. The marking of the evidence serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are

⁵⁷ *Rollo*, p. 38.

⁵⁸ *Id.* at 70.

⁵⁹ 612 Phil. 1238 (2014) [Per J. Carpio, First Division].

seized from the accused until they are disposed of at the end of criminal proceedings, obviating switching, "planting," or contamination of evidence.⁶⁰ (Citation omitted)

JO1 Ambrosio offered no explanation as to why she failed to immediately mark the seized drug upon it reaching the jail office. It seemed that she was waiting for Kagawad Monson to arrive first. However, the five-hour delay is a significant lapse of period, during which the seized item remained unaccounted for. In *People v. Alcuizar*:⁶¹

The chain of custody rule requires that the marking of the seized items should be done in the presence of the apprehended violator and immediately upon confiscation to ensure that they are the same items that enter the chain and are eventually the ones offered in evidence. In *Lopez v. People* citing *Catuiran v. People*, this Court held that:

It would include 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. 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. Indeed, it is from the testimony of every witness who handled the evidence from which a reliable assurance can be derived that the evidence presented in court is one and the same as that seized from the accused.

The aforesaid step initiates the process of protecting innocent persons from dubious and concocted searches, and of protecting as well the apprehending officers from harassment suits based on planting of evidence and on allegations of robbery or theft.⁶² (Citations omitted)

Furthermore, JO1 Ambrosio testified that when she confiscated the item, she placed it inside her right pocket:

PROS. VILLAFLOR

Q After confiscating the plastic sachet containing shabu and the purse, madam witness [JO1 Ambrosio], what did you do next, if any[?]

A I asked whether she understood the constitutional rights that I told her and she said she understood.

Q After that madam witness, what happened next?

⁶⁰ Id. at 1245.

⁶¹ 662 Phil. 794 (2011) [Per J. Perez, First Division].

⁶² Id. at 801-802.

A We confiscated the plastic sachet of shabu and as well as the coin purse and then put [them] in my right pocket. I brought th[em] to the office in order that we could prepare the pertinent papers so that [sic] for the filing of the necessary charges.⁶³ (Emphasis in the original, citation omitted)

Evidently, JO1 Ambrosio took personal custody of the seized drug by placing it inside her pocket. This irregular manner of handling the seized dangerous drug is suspicious, and has been previously denounced by this Court. In *People v. Dela Cruz*.⁶⁴

The prosecution effectively admits that from the moment of the supposed buy-bust operation until the seized items' turnover for examination, these items had been in the sole possession of a police officer. In fact, not only had they been in his possession, they had been in such *close proximity* to him that they had been nowhere else but in his own pockets.

Keeping one of the seized items in his right pocket and the rest in his left pocket is a doubtful and suspicious way of ensuring the integrity of the items. Contrary to the Court of Appeals' finding that PO1 Bobon took the necessary precautions, we find his actions reckless, if not dubious.

Even without referring to the strict requirements of Section 21, common sense dictates that a single police officer's act of bodily-keeping the item(s) which is at the crux of offenses penalized under the Comprehensive Dangerous Drugs Act of 2002, is fraught with dangers. One need not engage in a meticulous counter-checking with the requirements of Section 21 to view with distrust the items coming out of PO1 Bobon's pockets. That the Regional Trial Court and the Court of Appeals both failed to see through this and fell — hook, line, and sinker — for PO1 Bobon's avowals is mind-boggling.⁶⁵ (Emphasis in the original)

For all of those five hours after the confiscation, only JO1 Ambrosio had custody of the drug. This Court can only presume what happened during the gap of time between its seizure and its marking. By placing the drug along with the coin purse inside her pocket, JO1 Ambrosio only exacerbated the gravity of her failure to take the necessary precautions. Such action allowed the possibility of the drug's substitution, by accident or not.

In affirming petitioner's conviction, the Court of Appeals inevitably relied on the presumption of regularity in the performance of official functions. To it, not only was JO1 Ambrosio able to straightforwardly narrate the circumstances leading to the discovery of shabu, but there was also no proof that she had ill motive to falsely testify against petitioner.⁶⁶

To rely on the presumption of regularity in the performance of official functions, despite the flagrant lapses, is illogical. The lapses in themselves

⁶³ *Rollo*, pp. 54–55.

⁶⁴ 744 Phil. 816 (2014) [Per J. Leonen, Second Division].

⁶⁵ *Id.* at 834–835.

⁶⁶ *Rollo*, p. 39.

already hint at the irregularity in the performance of official functions. This presumption may only stand when the prosecution shows proof that the arresting officers followed the chain of custody with due diligence. Otherwise, it cannot overcome the constitutional right guaranteed to all accused for any sort of offense: the right to be presumed innocent until proven guilty. In *People v. Hilario*:⁶⁷

It is fundamental in the Constitution and basic in the Rules of Court that the accused in a criminal case enjoys the presumption of innocence until proven guilty. Likewise, it is well-established in jurisprudence that the prosecution bears the burden to overcome such presumption. If the prosecution fails to discharge this burden, the accused deserves a judgment of acquittal. On the other hand, if the existence of proof beyond reasonable doubt is established by the prosecution, the accused gets a guilty verdict. In order to merit conviction, the prosecution must rely on the strength of its own evidence and not on the weakness of evidence presented by the defense.⁶⁸ (Citations omitted)

Petitioner could very well have illegally possessed the seized dangerous drugs. However, the procedural lapses and the irregular manner by which the drug was handled raise reasonable doubt on the integrity and identity of the *corpus delicti*. As a result, this Court has no recourse but to acquit petitioner from the charge of illegal possession of dangerous drugs.

WHEREFORE, the January 16, 2018 Decision of the Court of Appeals is **REVERSED** and **SET ASIDE**. Petitioner Janet Rendal y Salasibar is **ACQUITTED** for the prosecution's failure to prove her guilt beyond reasonable doubt for the crime of illegal possession of dangerous drugs. She is ordered **RELEASED** from confinement unless she is being held for some other legal grounds.

Let a copy of this Resolution be furnished to the Superintendent of the Correctional Institution for Women for immediate implementation. The Superintendent is directed to report to this Court, within five days from receipt of this Resolution, the action she has taken. Copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

The Regional Trial Court is directed to turn over the seized sachet of methamphetamine hydrochloride to the Dangerous Drugs Board for destruction in accordance with law.

Let entry of judgment be issued immediately.

⁶⁷ G.R. No. 210610, January 11, 2018, 851 SCRA 1 [Per J. Leonardo-de Castro, First Division].

⁶⁸ Id. at 29-30.

SO ORDERED.” (*Inting, J., additional member vice Zalameda, J., per Raffle dated December 4, 2019.*)

Very truly yours,

Misa DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
GER
9/29/20

Atty. Roman Carlo R. Loveria
PUBLIC ATTORNEY'S OFFICE
Special & Appealed Cases Service
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East Avenue cor. NIA Road
Diliman, 1104 Quezon City

The Director General
PHILIPPINE NATIONAL POLICE
National Headquarters
Camp Crame, Quezon City

COURT OF APPEALS
CA G.R. CR No. 39288
1000 Manila

The Director General
PHILIPPINE DRUG ENFORCEMENT
AGENCY
PDEA Bldg., NIA Northside Road
Brgy. Pinyahan, Quezon City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 164, 1600 Pasig City

DANGEROUS DRUGS BOARD
3rd Floor, DDB-PDEA Bldg.
NIA Northside Road
National Government Center
Brgy. Pinayahan, Quezon City

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For up loading pursuant to A.M.12-7-1-SC]

The Director
BUREAU OF CORRECTIONS
1770 Muntinlupa City

LIBRARY SERVICES
Supreme Court, Manila

CTCI Mary Ann A. Marasigan
Officer-in-Charge
CORRECTIONAL INSTITUTION
FOR WOMEN
1550 Mandaluyong City

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

Ms. Janet Rendal y Salasibar
c/o The Superintendent
CORRECTIONAL INSTITUTION
FOR WOMEN
1550 Mandaluyong City



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TIME: 11:27

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

JANET RENDAL y
SALASIBAR,
Petitioner,

G.R. No. 240338

-versus-

PEOPLE OF THE
PHILIPPINES,
Respondent.

x-----/

ORDER OF RELEASE

TO: The Director
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Thru: **CTCI Mary Ann A. Marasigan**
Officer-in-Charge
CORRECTIONAL INSTITUTION FOR WOMEN
1550 Mandaluyong City

GREETINGS:

WHEREAS, the Supreme Court on June 10, 2020 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

“**WHEREFORE**, the January 16, 2018 Decision of the Court of Appeals is **REVERSED** and **SET ASIDE**. Petitioner Janet Rendal y Salasibar is **ACQUITTED** for the prosecution’s failure to prove her guilt beyond reasonable doubt for the crime of illegal possession of dangerous drugs. She is ordered **RELEASED** from

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confinement unless she is being held for some other legal grounds.

Let a copy of this Resolution be furnished to the Superintendent of the Correctional Institution for Women for immediate implementation. The Superintendent is directed to report to this Court, within five days from receipt of this Resolution, the action she has taken. Copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

The Regional Trial Court is directed to turn over the seized sachet of methamphetamine hydrochloride to the Dangerous Drugs Board for destruction in accordance with law.

Let entry of judgment be issued immediately.

SO ORDERED." (*Inting, J., additional member vice Zalameda, J., per Raffle dated December 4, 2019.*)

NOW, THEREFORE, You are hereby ordered to immediately release **JANET RENDAL y SALASIBAR**, unless there are other lawful causes for which she should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

GIVEN by the Honorable **MARVIC MARIO VICTOR F. LEONEN**, Chairperson of the Third Division of the Supreme Court of the Philippines, this **10th** day of **June 2020**.

Very truly yours,

Misael DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

GER
9/24/20

PUBLIC ATTORNEY'S OFFICE
Special & Appealed Cases Service
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COURT OF APPEALS
CA G.R. CR No. 39288
1000 Manila

The Presiding Judge
REGIONAL TRIAL COURT
Branch 164, 1600 Pasig City

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1550 Mandaluyong City

Ms. Janet Rendal y Salasibar
c/o The Superintendent
CORRECTIONAL INSTITUTION
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Supreme Court, Manila

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Supreme Court, Manila

G.R. No. 240338 *galan* 