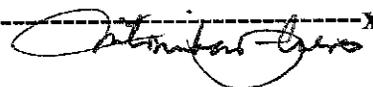


EN BANC

G.R. No. 250307 – PEOPLE OF THE PHILIPPINES, Plaintiff-appellee,
v. ROBERT UY y TING, Accused-appellant.

Promulgated:

February 21, 2023

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SEPARATE CONCURRING OPINION

LEONEN, J.:

I concur.

I

We commence with the prosecution's version of events that led to the filing of the criminal charges.

According to Police Senior Inspector Rainerio De Chavez (PSINSP De Chavez), the team leader of the Anti-Illegal Drugs Special Operations Task Force (AID-SOTF) of Camp Crame, surveillance operations began against one Jackie Ong (Ong) in October 2003 to validate his involvement in illegal drugs. At around 1:00 p.m. on November 10, 2003, in coordination with the Bureau of Immigration led by Superintendent Winnie Quidato (Superintendent Quidato), they proceeded to Room 402 Oro Building, Sanchez Street, Binondo, Manila to execute the Mission Order against Ong. They brought along with them an interpreter named Ramon Yang.¹

When PSINP De Chavez knocked on the door, Ong opened it. With the aid of the interpreter, they were allowed to enter the unit. Inside, PSINP De Chavez noticed three other Chinese-looking individuals, later identified as Co Ching Ki, Tan Ty Siao, and Go Siak Ping,² whom they asked to show proper documentations of their stay in the country. When Ong and the Chinese nationals could not do so, the officers brought them to their office at Camp Crame for further investigation.³

Upon informing the Chinese nationals about their deportation for violation of immigration laws, Ong and Co Ching Ki offered 10 kilograms

¹ Ponencia, p. 3.

² *Id.* at 2.

³ *Id.* at 3-4.

of *shabu* in exchange for their freedom. PSINP De Chavez allegedly played along and gave his number to Co Ching Ki.

After several phone calls, Co Ching Ki informed PSINP De Chavez that the 10 kilograms of *shabu* were ready for pick-up, but a vehicle was needed for delivery. PSINP Melchor Cantil offered his Mitsubishi Lancer.⁴

They arrived just before 7:30 p.m. at the designated pick-up area in McDonald's along McArthur Highway. They parked the Mitsubishi Lancer then left. After several minutes, a man boarded the car and drove it. They followed the car until it reached a warehouse in Mapulang Lupa, Valenzuela City, which was being leased by a certain Willie Gan (Gan). PSINP De Chavez parked his vehicle 15 meters away and waited for the car to proceed to the designated pick-up area.⁵

When the car did not park on the agreed spot, PSINP De Chavez approached it. As the driver was about to get out, he saw a box inside and instructed Police Officer I Richel Creer (PO1 Creer) to get it. Inside the box were five plastic bags of white crystalline substance. They apprehended the driver who was later identified as Robert Uy (Uy), then proceeded to the warehouse. After securing and guarding the perimeters, the rest of the team brought Uy to their station at Camp Crame.⁶

Police Officer II Rogelio Rodriguez (PO2 Rodriguez) testified that they conducted a test buy against Ong at around 10:00 a.m. on October 20, 2003, where he posted as back-up. The informant and PO1 Creer met a Chinese-looking man who handed the informant something then immediately left. After the test buy, they tried applying for a search warrant and attempted to buy a large quantity of *shabu* from Ong, to no avail. Since the operation seemed to have been busted, they instead asked help from the Bureau of Immigration to check the legality of Ong's stay in the country.⁷

Superintendent Quidato testified that he was part of the team that went to Binondo on November 10, 2003. He left the AID-SOTF office around 6:30 p.m. when the relatives of the Chinese nationals did not show up to bring the documents needed. On November 11, 2003, he was also in Mapulang Lupa when the search warrant was implemented and witnessed by Commissioner Andrea D. Domingo, General Edgar B. Aglipay, the chief of the AID-SOTF, the scene of the crime operatives, and the Presidential Security Group. He was also part of the team that implemented the Mission Order against Gan on December 26, 2003.⁸

⁴ *Id.* at 4.

⁵ *Id.* at 4, 5.

⁶ *Id.* at 4.

⁷ *Id.*

⁸ *Id.* at 5.

Senior Police Officer II Severino Busa (SPO2 Busa) testified that at around 8 a.m. on November 11, 2003, together with PSINP De Chavez and the other officers, he was called by their chief, Superintendent Federico Lasiste, to discuss the execution of the search warrant, in which he was designated as the seizing officer. The team reached the warehouse at around 9:30 a.m. At around 10:45 a.m., PSINP De Chavez and PO1 Creer arrived with the search warrant. Their team served the warrant and found *shabu* inside the warehouse. The search was allegedly witnessed by barangay officials, some media reporters, the scene of the crime operatives, and Uy. While the operatives listed the evidence recovered, SPO2 Busa said that he prepared the Inventory Receipt and Certificate of Orderly Search. At around 5:00 p.m., the team returned to Camp Crame and turned over the marked evidence to the scene of the crime operatives.⁹

Rogelio Samorano (Samorano), the owner of the warehouse leased by Gan, testified that Uy called him to arrange an inspection of the warehouse. Uy and Gan became interested to rent it at PHP 130,000.00 per month. Samorano only discovered that the warehouse was raided when his brother told him about it.¹⁰

There are two incidents central to this case. First, on November 10, 2003, Uy was allegedly transporting and delivering¹¹ 9,384.7 grams of *shabu*. Hence, together with his co-accused Ong, Gan, Co Ching Ki, Tan Ty Siao, and Go Siak Ping, Uy was charged with violation of Section 5¹² in relation to Section 26(b)¹³ of Republic Act No. 9165 in Criminal Case No. 1179-V-03.¹⁴

Second, on November 11, 2003, a search was conducted at a warehouse in Mapulang Lupa,¹⁵ which led to the confiscation of around 119.08 kilograms of *shabu* and 111.20 kilograms of chloromethamphetamine hydrochloride.¹⁶ All the accused were charged

⁹ *Id.*

¹⁰ *Id.* at 5–6.

¹¹ *Id.* at 16.

¹² Republic Act No. 9165 (2002), sec. 5 states in part:

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

¹³ Republic Act No. 9165 (2002), sec. 26 states in part:

SECTION 26. Attempt or Conspiracy. — Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

.....
(b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical[.]

¹⁴ *Ponencia*, p. 2.

¹⁵ *Id.* at 16.

¹⁶ *Ponencia*, p. 3.

with illegal possession of dangerous drugs under Section 11¹⁷ of Republic Act No. 9165 in Criminal Case No. 1180-V-03.¹⁸

For his defense, Uy claimed to be a businessperson with a construction supply store in Caloocan City. He allegedly met Gan in 1999 through his uncle and was introduced to him as a businessperson engaged in school supplies and furniture. They eventually became friends and business associates. Since Gan was not familiar with Metro Manila, he hired him as his part-time driver for PHP 30,000.00 per month.¹⁹

In January 2003, he said that Gan asked him to look for a warehouse in Valenzuela City. When Samorano and Gan met, they agreed on the monthly rent of the warehouse. Gan had the warehouse repaired when it was later turned over to him.²⁰

As a routine, he would allegedly drive Gan from the latter's house going to the warehouse, as well as to other places. From October 2003 to November 9, 2003, Gan did not contact him or engage his services. Nonetheless, at around 6:00 p.m. on November 10, 2003, Gan called to meet him at McDonald's along MacArthur Highway. When he reached the place from around 7:30 p.m. to 8:30 p.m., Gan contacted him about a red Mitsubishi Lancer with keys already on the ignition switch which he would be driving to the warehouse.²¹

Upon arriving at the warehouse, Gan was at the gate with a box. The latter boarded the car and placed the box in the backseat. He was allegedly directed to park the car in front of a Mercury Drug Store and leave it there because someone would be getting it. Gan alighted from the vehicle before reaching the drug store.

After parking the car, several police officers approached him. He asked them what he did wrong but instead of getting an answer, he was only told to board the said car. They proceeded to the warehouse and only kept

¹⁷ 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";

....
(8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDMA) or "ecstasy", paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxybutyrate (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act [.]

¹⁸ *Ponencia*, p. 3.

¹⁹ *Id.* at 6.

²⁰ *Id.*

²¹ *Id.*

watch outside. They then proceeded to Camp Crame where one of the police officers opened the compartment, brought out the box, and opened it. Inside the box were five big plastic bags with white powder. At around 11:00 p.m., he was allegedly led to a room on the second floor of the AID-SOTF office where he met the four Chinese nationals for the first time whose names he only came to know at that moment.²²

On January 20, 2011, the Regional Trial Court issued an Order dismissing the case against Ong, Tan Ty Siao, and Go Siak Ping due to a demurrer to evidence. It found no proof that they participated in the bribe between Co Ching Ki and PSINP De Chavez. The prosecution also failed to prove that there was conspiracy among them and Co Ching Ki because only the latter facilitated the delivery of the *shabu*. The prosecution's documentary and testimonial evidence, as to the trial court, failed to establish a link between the seized evidence and the three accused.²³

On June 30, 2014, the Regional Trial Court issued a Joint Decision convicting Uy of both charges. It held that Uy had been caught *in flagrante delicto* in possession of a box containing five plastic bags of methamphetamine hydrochloride, particularly inside the compartment of the car he was driving, that he actually delivered to the police officers.²⁴

Meanwhile, the trial court convicted Gan, as the lessee of the warehouse, of possession of dangerous drugs but absolved him of the charge for violation of Section 5 absent supporting evidence that he directed Uy to pick up the illegal drugs from the warehouse.²⁵ Also, for doubting the prosecution's story on the bribery offered to the police officers, the trial court acquitted Co Ching Ki for lack of direct evidence that he was in possession of illegal drugs and disposed the case in this wise:

WHEREFORE, in view of the foregoing, in Crim. Case No. 1179-V-03, the Court finds the accused ROBERT UY y TING GUILTY beyond reasonable doubt of the crime of Violation of Sec. 5 in relation to Section 26 par. (b) of Article II of Republic Act No. 9165 and sentenced to suffer the penalty of Life Imprisonment and to pay a FINE in the amount of Five Hundred Thousand Pesos while the Court finds accused Willy Gan @ William Gan not guilty of the said crime.

In Crim. Case No. 1180-V-03 the Court also finds the accused ROBERT UY y Ting and WILLY GAN @ WILLIAM GAN both GUILTY beyond reasonable doubt of the crime of Violation of Sec. 11, Art. II of Republic Act No. 9165 and sentenced to suffer the penalty of twelve (12) years and one (1) day as minimum to fourteen (14) years and eight (8) months as maximum and EACH to pay a FINE in the amount of Three Hundred Thousand Pesos (P300,000.00).

²² *Id.* at 6-7.

²³ *Id.* at 7.

²⁴ *Id.* at 8.

²⁵ *Id.* at 9.

Accused Robert Uy y Ting shall serve the penalty successively. He and Willy Gan @ William Gan shall be given full credit of their preventive imprisonment.

Meanwhile, the accused CO CHING KI is ACQUITTED on both cases due to insufficiency of evidence. Consequently, the Jail Warden of the Valenzuela City Jail is directed to release the person of Co Ching Ki unless he is being held for some other legal and lawful cause.

The Branch Clerk of Court is directed to turn over to PDEA the drugs used as evidence in this case for proper disposition.

SO ORDERED.²⁶ (Emphasis supplied)

Only Uy appealed.²⁷

On April 25, 2019, the Court of Appeals affirmed the conviction with modification on the penalty and fine imposed in Criminal Case No. 1180-V-03 due to the quantity of dangerous drugs involved.²⁸

Thus, Uy appealed before this Court. The *ponencia* granted accused-appellant's appeal,²⁹ with which I agree.

The police officers' unjustified deviations with the chain of custody rule under Republic Act No. 9165 cast doubt on the identity of the confiscated dangerous drugs. Inevitably, the prosecution failed to establish the *corpus delicti*, which also results in their concomitant failure to prove the commission of the crimes charged under Republic Act No. 9165.

Perforce, accused-appellant's acquittal must follow³⁰ based on reasonable doubt.³¹

II

To give meaning to the following provision under Article III, Section 14(2) of the Constitution, we uphold the presumption of innocence in favor of the accused in resolving criminal cases:

(2) *In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the*

²⁶ *Id.* at 8.

²⁷ *Id.* at 9.

²⁸ *Id.* at 11.

²⁹ *Id.* at 33.

³⁰ See *People v. Paz*, G.R. No. 233466, August 7, 2019 [Per J. Peralta, Third Division].

³¹ *Ponencia*, p. 16.

accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

As such, jurisprudence provides that conviction depends on the strength of the prosecution's evidence, not the weakness of the defense. Although not compelling "such a degree of proof as to establish absolutely impervious certainty, the quantum of proof required in criminal cases nevertheless charges the prosecution with the immense responsibility of establishing moral certainty, a certainty that ultimately appeals to a person's very conscience."³² Therefore, an accused's conviction is only warranted if guilt is proven beyond reasonable doubt.³³

The State, in cases involving dangerous drugs, has the burden of not only establishing the elements of the offense, but also proving the *corpus delicti* or body of the crime.³⁴ In all prosecutions under Republic Act No. 9165, the dangerous drug constitutes the *corpus delicti*. Since its existence is vital for conviction, the identity of the dangerous drug should be proven beyond reasonable doubt. With this, the prosecution must account for each link in the chain of custody beginning from seizure until its presentation in court as evidence. Simply put, it should be ascertained with "*unwavering exactitude* that the dangerous drug presented in court as evidence against the accused is the same as that seized from [them] in the first place."³⁵ Similarly, it must be proved that there was no break in the chain of custody.³⁶

The chain of custody is the "duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation, to receipt in the forensic laboratory, to safekeeping, to presentation in court for destruction."³⁷ Each person who came in contact with the confiscated articles "is duty-bound to detail how it was cared for, safeguarded and preserved while in his or her control to prevent alteration or replacement while in custody. The guarantee of the integrity of the evidence to be used against an accused goes to the very heart of [their] fundamental rights."³⁸ The following are the crucial links that the prosecution ought to establish in the chain of custody:

[F]irst, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the

³² *People v. Ferrer*, 832 Phil. 527, 538–539 (2018) [Per J. Martires, Third Division].

³³ *Id.* at 539.

³⁴ *Luna v. People*, G.R. No. 231902, June 30, 2021 [Per J. Caguioa, First Division].

³⁵ *People v. Ferrer*, 832 Phil. 527, 540–541 (2018) [Per J. Martires, Third Division]. (Citation omitted)

³⁶ *Id.* at 541.

³⁷ *Luna v. People*, G.R. No. 231902, June 30, 2021 [Per J. Caguioa, First Division]. (Citation omitted)

³⁸ *Valdez v. People*, 563 Phil. 934, 954 (2007) [Per J. Tinga, Second Division].

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.³⁹ (Citation omitted)

Republic Act No. 9165, as originally worded,⁴⁰ outlines the specific procedures to aid law enforcers in maintaining the integrity and evidentiary value of the confiscated articles from the accused.⁴¹ Section 21⁴² of Republic Act No. 9165 requires that the articles be inventoried and photographed immediately after seizure and confiscation, in the presence of the accused, or their representative or counsel, a media representative, a representative from the Department of Justice, and an elected public official, all of whom are called to sign the inventory form and given copies.⁴³

The phrase “immediately after seizure and confiscation” entails that the physical inventory and photographing of the dangerous drugs “be made immediately after or at the place of apprehension.”⁴⁴ As provided in the Implementing Rules and Regulations⁴⁵ of the law, only in impracticable situations may the mandatory procedures “be done as soon as the apprehending team reaches the nearest police station or the nearest office of

³⁹ *People v. Ferrer*, 832 Phil. 527, 543–544 (2018) [Per J. Martires, Third Division].

⁴⁰ Since the pertinent incidents of this case occurred in November 10 and 11, 2003, we apply the provisions of Republic Act No. 9165 prior to its amendment by Republic Act No. 10640 in 2016. See also *ponencia*, p. 22.

⁴¹ *People v. Ferrer*, 832 Phil. 527, 542 (2018) [Per J. Martires, Third Division].

⁴² Republic Act No. 9165 (2002), sec. 21 states in part:

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

(1) *The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof,*

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

⁴³ *Luna v. People*, G.R. No. 231902, June 30, 2021 [Per J. Caguioa, First Division].

⁴⁴ *Id.*

⁴⁵ Implementing Rules and Regulations, Republic Act No. 9165, sec. 21 (2002) states:

SECTION 21. *Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — . . .

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.] (Emphasis supplied)

the apprehending officer/team.”⁴⁶ This also means that the attendance of the three insulating witnesses should be at the time of apprehension⁴⁷ because it is at this moment that their presence is the most demanded to “believe any doubt as to the source, identity, and integrity of the seized drug.”⁴⁸

Here, the police officers failed to conform to Section 21 of Republic Act No. 9165 in both cases.

The prosecution’s narration of events shows that it was PO1 Creer who seized the box from the Mitsubishi Lancer⁴⁹ on November 10, 2003; yet, from PSINP De Chavez’s testimony, he was the one who marked the box and its contents.⁵⁰ As the *ponencia* points out, the time of marking and if it was done in the presence of accused-appellant and the insulating witnesses were not clear from the records. Aside from having no inventory receipt, the time when the box and the five plastic bags of *shabu* were photographed was similarly vague.

Pertinent to the November 11, 2003 operation, no representative from the Department of Justice witnessed the search conducted. While SPO2 Busa stated that he prepared the inventory receipt, it was not submitted as evidence. Likewise, no photographs of the articles confiscated in the warehouse were presented.⁵¹

Notably, even the saving clause in the Implementing Rules and Regulations cannot work in favor of the prosecution. Although noncompliance with Section 21 is not prejudicial to its cause “provided that the integrity and evidentiary value of the seized items are properly preserved by the apprehending officers, this exception will only be triggered by the existence of a ground that justifies departure from the general rule.”⁵²

Here, the prosecution makes a frail attempt to justify its failure to secure the attendance of the witnesses, saying that the situation was urgent as Co Ching Ki and Ong had just offered 10 kilograms of *shabu* in exchange for their freedom.⁵³ Since the police officers were able to prepare the car needed to deliver the *shabu*, they could have just conveniently secured the presence of the insulating witnesses, which they failed to do.

The same goes for the search conducted on November 11, 2003, where no Department of Justice representative attended the search; yet, prior

⁴⁶ *Luna v. People*, G.R. No. 231902, June 30, 2021 [Per J. Caguioa, First Division].

⁴⁷ *Id.*

⁴⁸ *People v. Tomawis*, 830 Phil. 385, 409 (2018) [Per J. Caguioa, Second Division].

⁴⁹ *Ponencia*, p. 4.

⁵⁰ *Id.* at 22.

⁵¹ *Id.* at 23.

⁵² *People v. Paz*, G.R. No. 233466, August 7, 2019 [Per J. Peralta, Third Division]. (Citation omitted)

⁵³ *Ponencia*, p. 25.

to the operation, the police officers were able to obtain a search warrant and plan its execution. Regrettably, aside from failing to comply with the procedures under the law, the police officers also did not bother explaining their nonconformity.⁵⁴

Worse, the chain of custody of the dangerous drugs in both charges was replete with substantial gaps. The following elucidations in the *ponencia* as to the initial link are telling:

The first link in the chain is the seizure and marking, if practicable, of the seized items by the apprehending officer. . . .

In the November 10, 2003 operation, PO1 Creer was the seizing officer. However, the one who “marked” the carton box and the five plastic bags was PSI[NP] De Chavez. Clearly, possession over the seized items from the November 10, 2003 operation was transferred at some point from PO1 Creer to PSI[NP] De Chavez. However, there is no testimony on how the integrity and evidentiary value of the seized items were preserved when possession thereof was transferred. PO1 Creer, in fact, was never presented as a witness and, as such, there is likewise no evidence on how he kept and preserved the items seized. Further, there is no testimony on exactly how PSI[NP] De Chavez marked the items seized. *From the very first instance, the identity of the seized items from the November 10, 2003 operation is questionable.*

As to the November 11, 2003 operation, the prosecution never alleged that the items seized from the warehouse were marked. SPO2 Busa only testified that the SOCO itemized and listed the evidence recovered, but it was he who prepared the Inventory Receipt. Again, no such inventory receipt was presented. SPO2 Busa also failed to testify how he kept and preserved the evidentiary value of the seized items prior to turning over the same to PO2 Ursita. *Once more, the identity of the seized items from the November 11, 2003 operation is dubious from the first instance.*⁵⁵ (Emphasis supplied)

Given that the first links in both charges were innately weak, an irreparable break in the chain exists.⁵⁶ Without the initial link, there can no longer be a chain of custody to speak of, making it unnecessary to discuss the other links.⁵⁷

The procedure outlined under Section 21 of Republic Act No. 9165 “is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.”⁵⁸ “For indeed, however noble the purpose or necessary the exigencies of the campaign against illegal drugs may be, it is still a governmental action that must always be executed within

⁵⁴ *Id.*

⁵⁵ *Id.* at 28.

⁵⁶ See *People v. Ferrer*, 832 Phil. 527, 548 (2018) [Per J. Martires, Third Division].

⁵⁷ *Id.* at 549.

⁵⁸ *People v. Tomawis*, 830 Phil. 385, 404 (2018) [Per J. Caguioa, Second Division].

the boundaries of law.”⁵⁹ Besides, strict compliance with Section 21 is warranted because “penal laws are strictly construed against the government[.]”⁶⁰

Here, the unrecognized and unexplained deviations taint the identity of the *corpus delicti*. This Court, therefore, has no other option but to acquit accused-appellant. As explained in the *ponencia*, this acquittal also operates to favor Gan despite his non-appeal.⁶¹

III

Finally, I wish to highlight the glaring errors committed by the prosecution, the defense, and the trial court, which led to the judgment of acquittal in this case.⁶² As pointed out in the *ponencia*:

The instant case reveals the law enforcement agents' complete ignorance of the requirements of Sec[ti]on 21 of [Republic Act] No. 9165. The pieces of evidence submitted in the instant case, such as the photographs taken of the warehouse, demonstrate an utter lack of care in complying with the requirements of the law. Instead of taking a photograph of the items seized, the apprehending officers merely saw fit to take a photograph of the operatives securing the specimens recovered inside the warehouse and the operatives together with the items inside the warehouse. Further, there is nary any allegation that they even attempted to secure the required insulating witnesses for the November 10, 2003 incident. This ignorance extends to the prosecution because the records are woefully bereft of any attempt on its part to even invoke justifiable circumstances to excuse the failure of the law enforcement agents to even attempt to comply with the mandatory requirements of Sec[ti]on 21 of [Republic Act] No. 9165. The utter disregard for the law demonstrated by these actors is reprehensible.

Even more reprehensible is the error committed by the [Regional Trial Court] in the penalty imposed upon Willie Gan and accused-appellant for Violation of Sec[ti]on 11, Art[icle] II or [Republic Act] No. 9165.

Sec[ti]on 11, Art[icle] II of [Republic Act] No. 9165 is clear in providing that the penalty of life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10,000,000.00 is imposed where the *shabu* or other dangerous drugs possessed is 50 grams or more[.]

....

Despite such clear language to impose the penalty of life imprisonment, the [Regional Trial Court] imposed against Willie Gan a penalty of “twelve (12) years and one (1) day as minimum to fourteen (14) years and eight (8) months as maximum and [. . .] to pay a FINE in the

⁵⁹ *Id.* (Citation omitted)

⁶⁰ *See People v. Ferrer*, 832 Phil. 527, 548 (2018) [Per J. Martires, Third Division].

⁶¹ *Ponencia*, p. 31.

⁶² *Id.* at 33.

amount of Three Hundred Thousand Pesos ([P]300,000.00).” *Willie Gan evidently did not anymore appeal the [Regional Trial Court] Decision because the lower penalty imposed was advantageous to him.* Notably, the prosecution did not even question the insufficient penalty imposed against Willie Gan.

The Court also cannot help but observe that, despite this case initially involving five Chinese nationals (Jackie Ong, Co Ching Ki, Tan Ty Siao, Go Siak Ping, and Willie Gan) and accused-appellant, the sole Filipino, it ended with only accused-appellant and Willie Gan convicted by the [Regional Trial Court], with Willie Gan even meted a penalty far too lenient than that imposed by law. It bewilders the Court how the [Regional Trial Court] could have acquitted Co Ching Ki and Jackie Ong, ratiocinating that their bribe to PSI[NP] De Chavez was not proven as a fact, and, in the same breath, convict accused-appellant whose participation in the events could have only arisen if the bribe, as recounted by PSI[NP] De Chavez, occurred. Further, it truly confounds the Court how the [Regional Trial Court] could have imposed an erroneous penalty on Willie Gan and accused-appellant for Violation of Sec[ti]on 11, Art[ic]le II of [Republic Act] No. 9165 when there is no room for confusion in the language of the law. Even the prosecution’s failure to appeal the incorrect penalty imposed on Willie Gan astounds the Court. Truly, the acquittal in the instant case is ordained by the multiple errors, whether through negligence or misfeasance, committed by the prosecution, the defense, and the trial court.⁶³ (Emphasis supplied, citations omitted)

An acquittal that is either directed by the trial or appellate court “is final, unappealable, and immediately executory upon its promulgation.”⁶⁴ However, this fortified rule admits of an exception, which is “grave abuse of discretion that is strictly limited whenever there is a violation of the prosecution’s right to due process such as when it is denied the opportunity to present evidence or where the trial is sham or when there is a *mistrial*, rendering the judgment of acquittal void.”⁶⁵

In *Galman v. Sandiganbayan*,⁶⁶ this Court nullified the judgment of acquittal rendered by the Sandiganbayan in favor of all the accused in the murder of former Senator Benigno Aquino, Jr. and Rolando Galman.⁶⁷ This Court explained that double jeopardy does not set in because the proceeding conducted was a sham where “the authoritarian president ordered respondents Sandiganbayan and Tanodbayan to rig the trial and closely monitored the entire proceedings to assure the predetermined final outcome of acquittal and total absolution as innocent of all the respondents-accused.”⁶⁸

⁶³ *Id.*

⁶⁴ *Cogasi v. People*, G.R. No. 249002, August 4, 2021 [Per J. Carandang, Third Division].

⁶⁵ *Id.*

⁶⁶ 228 Phil. 42 (1986) [Per C.J. Teehankee, *En Banc*].

⁶⁷ *Id.* at 96.

⁶⁸ *Id.* at 88.

As in *Galman*, there was a mistrial in this case insofar as the pillars, essential to the administration of justice,⁶⁹ miserably fell short of the required diligence to fulfill their respective mandates.

The prosecutors do not represent “an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all, and whose interest, therefore, in a criminal prosecution is not that it shall win every case but that justice be done.”⁷⁰ They are, in all respects, servants of the law whose purpose is to ensure that the guilty shall not run free and the innocent shall not suffer.⁷¹

Fittingly, the prosecution should clearly provide the relevant facts before the court with meticulous attention to details in order to explain the “contradictions and [to] [seal] . . . gaps in the evidence, with a view to erasing all doubt from the court’s mind as to the accused’s innocence or guilt.”⁷² Such is not the case here. With the failure of the law enforcers to strictly comply with Section 21, the prosecution must offer justifiable reasons and prove that despite nonconformity, the integrity and evidentiary value of the evidence remain. However, as pointed out in the *ponencia*, nothing in the records shows⁷³ that the prosecution attempted to do so. This runs counter to the enthusiasm and vigor expected of the prosecution in prosecuting a public action. Being “charged with the defense of the community aggrieved by a crime,”⁷⁴ prosecutors must act as if they were the ones directly offended.⁷⁵

The same holds true for the judge, who is expected to possess the utmost sense of responsibility in fulfilling the duty to guarantee a speedy and proper administration of justice at all times. Even though the resolution of a criminal case lies within the judge’s exclusive competence and jurisdiction, their discretion is not unbridled and must be employed within reasonable constraints.⁷⁶ Here, it is absurd how the trial judge could have mistakenly imposed a lesser penalty despite the law being clear on the matter. Equally telling, the very persons who initiated the bribe from where the main charges emanated were conveniently acquitted at the onset of the proceedings.

We are to be reminded that for justice to abound, its scales should be balanced for both the accused vis-à-vis the State and the offended parties:

Indeed, for justice to prevail, the scales must balance; justice is not to be dispensed for the accused alone. The interests of society and the

⁶⁹ *Ponencia*, p. 33.

⁷⁰ *Dimatulac v. Villon*, 358 Phil. 328, 364 (1998) [Per J. Davide, Jr., First Division].

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Ponencia*, p. 31.

⁷⁴ *Dimatulac v. Villon*, 358 Phil. 328, 364 (1998) [Per J. Davide, Jr., First Division].

⁷⁵ *Id.* at 365.

⁷⁶ *Id.*

offended parties which have been wronged must be equally considered. Verily, a verdict of conviction is not necessarily a denial of justice; and an acquittal is not necessarily a triumph of justice, for, to the society offended and the party wronged, it could also mean injustice. Justice then must be rendered even-handedly to both the accused, on one hand, and the State and offended party, on the other.⁷⁷ (Citation omitted)

An acquittal borne out of a mistrial is a void judgment, which has no legal effect.⁷⁸ Assailing a judgment of acquittal is only properly coured through a petition for *certiorari* under Rule 65 of the Rules of Court.⁷⁹

ACCORDINGLY, I vote to **GRANT** the appeal of accused-appellant Robert Uy y Ting.



MARVIC M.V.F. LEONEN
Senior Associate Justice

CERTIFIED TRUE COPY



MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court

⁷⁷ *Id.*

⁷⁸ See *Galman v. Sandiganbayan*, 228 Phil. 42, 89-90 (1986) [Per C.J. Teehankee, *En Banc*].

⁷⁹ *Villareal v. Aliga*, 724 Phil. 47, 59 (2014) [Per J. Peralta, Third Division].