



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **28 April 2021** which reads as follows:*

“G.R. No. 250415 (*Allan Raymund Paras v. People of the Philippines*). – The Court resolves to:

1. **GRANT** the motion of counsel for petitioner to admit supplemental arguments to the petition for review dated 20 July 2020;
2. **NOTE** aforesaid supplemental arguments to the petition for review dated 21 July 2020;
3. **NOTE** the manifestation/compliance dated 23 November 2020 by counsel for petitioner relative to the Resolutions dated 7 July 2020 and 15 July 2020, stating therein the material dates of receipt of the assailed decision and filing of the motion for reconsideration; submitting certified true copies of the assailed Decision dated 26 June 2018 and Resolution dated 24 September 2019 in CA-G.R. CR HC No. 09636, and a compact disc containing the soft copies of the required documents; and further stating that an e-mail containing some of the required documents were previously sent *via* Court’s e-mail address at efile_jro@sc.judiciary.gov.ph pursuant to A.M. No. 10-3-7-SC, and **GRANT** counsel’s prayer for more time with regard to the submission of the verification and certification against forum shopping for reasons stated therein; but nevertheless, submitting an unnotarized print out of the verification/certification signed by petitioner received from the New Bilibid Prison thru e-mail;

4. **NOTE** the letter dated 7 December 2020 of the Archives Section, Judicial Record Division, Court of Appeals (CA), Manila, by way of compliance with the Resolution dated 27 August 2020, submitting the CA *rollo* and the original records of the case;

5. **NOTE** and **GRANT** the manifestation and motion dated 26 January 2021 of the Office of the Solicitor General (OSG), praying that the attached motion for extension of time to file comment which was electronically filed and served on 21 January 2021, be considered as having been timely filed and served;

6. **GRANT** aforesaid motion of the OSG for extension of thirty (30) days from 21 January 2021 within which to file comment on the petition for review on *certiorari*; and

7. **NOTE** aforesaid comment (on the petition for review on *certiorari* dated 18 November 2019) dated 16 February 2021 in compliance with the Resolution dated 27 August 2020.

The Case

This petition for review on *certiorari*¹ under Rule 45 seeks to reverse the Decision² dated June 26, 2018 and Resolution³ dated September 24, 2019, both of the CA in CA-G.R. CR HC No. 09636. The first affirmed the conviction of petitioner Allan Raymund Paras (Paras) for violations of Sections 5 and 11 of Republic Act No. 9165 (RA 9165), as amended by Republic Act No. 10640 (RA 10640)⁴ imposing the corresponding penalties, while the second denied petitioner's motion for reconsideration.

The Proceedings before the Trial Court

The Charges and Pleas

Paras was charged under the following Information:

¹ *Rollo*, pp. 11-36.

² Penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justice Rodil V. Zalameda (now a member of this Court) and Associate Justice Renato C. Francisco, *id.* at 102-124.

³ *Id.* at 126-127.

⁴ An Act To Further Strengthen The Anti-Drug Campaign Of The Government, Amending For The Purpose Section 21 of Republic Act No. 9165, Otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," approved on July 15, 2014.

Criminal Case No. 5140-17

That on or about 8:30 o'clock in the evening of January 27, 2015 at Barangay No. 7, Caunayan, City of Batac, Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being a private individual, and while under the influence of [dangerous] drugs as per Chemistry Report No. CDT-031-2015-IN, did then and there willfully, unlawfully, feloniously and knowingly have in his possession, control and custody three (3) [pieces] heat-sealed transparent [small] plastic sachets with marking CC/AP-3, CC/AP-4, CC/AP-5 respectively, each containing white crystalline substance with recorded weights 0.0257 gram; 0.5781 gram and 0.0237 gram, respectively, and three (3) pieces opened small plastic sachets with markings CC/AP-A, CC/AP-B, CC/AP-C, each containing traces of white residues, which all gave positive result to the test for the presence of methamphetamine hydrochloride, which is commonly known as "shabu", a dangerous drug, without the necessary authority, permit or license from the appropriate government agency, in violation of the aforecited law.

CONTRARY TO LAW.⁵

Criminal Case No. 5141-17

That on or about 8:30 o'clock in the evening of January 27, 2015 at Barangay No. 7, Caunayan, City of Batac, Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being a private individual, and while under the influence of [dangerous] drugs as per Chemistry Report No. CDT-031-2015-IN, did then and there willfully, unlawfully, feloniously and knowingly sell and deliver two (2) heat-sealed transparent plastic sachets described as Specimen "A1" with markings CC/AP-1 weighing 0.0341 gram and Specimen "A2" with markings CC/AP-2 weighing 0.0360 containing white crystalline substance which all gave positive result to the test for the presence of methamphetamine hydrochloride, which is commonly known as "shabu", a dangerous drug, which was bought by PO3 CARLO R. CARLOS, who acted as poseur-buyer, in consideration of two (2) pieces FIVE HUNDRED PESO marked money bills with Serial No. (sic) WQ 711366 & WQ 711365, respectively, without the necessary authority, permit or license from the appropriate government agency, in violation of the [aforecited] law.

CONTRARY TO LAW.⁶

On arraignment, Paras pleaded *not guilty* to both charges.⁷ Thereafter, trial ensued.⁸ The prosecution presented five (5) witnesses: SPO2 Christopher Pajinag (SPO2 Pajinag), PO1 Joel Macadangdang (PO1 Macadangdang), poseur-buyer PO2 Carlo Carlos⁹ (PO2 Carlos),

⁵ *Rollo*, pp. 103-104.

⁶ *Id.* at 104.

⁷ *Id.* at 38.

⁸ *Id.*

⁹ Sometimes also referred to as PO3 Carlos.

Police Inspector Amiely Ann Navarro (P/Insp. Navarro), and SPO4 Nilo Domingo (SPO4 Domingo). On the other hand, Paras alone testified for the defense.¹⁰

Version of the Prosecution

A confidential informant reported to the Batac Police Station that Paras was allegedly selling illegal drugs. On January 27, 2015, around 4 o'clock in the afternoon, the Batac Chief of Police conducted a briefing for an entrapment operation. Thereafter, a pre-coordination report was submitted to the Philippine Drug Enforcement Agency (PDEA). By 8 o'clock in the evening, the entrapment team gathered for a final briefing where PO2 Carlos was designated as poseur-buyer who would accompany the informant while PO1 Macadangdang, PO1 Ray Denniker Lugto (PO1 Lugto), SPO3 Rodel Baradi (SPO3 Baradi), SPO1 Nemesio Tadeja (SPO1 Tadeja), and SPO1 Pajinag were to act as back-up. PO2 Carlos received two (2) pieces of ₱500-bill marked money and got instructed to remove his cap to signal the consummation of the sale. The transaction was to take place within the vicinity of Malabed Eatery in Brgy. Caunayan, Batac City.¹¹

There, PO2 Carlos and the informant waited for Paras. On the other hand, PO1 Macadangdang and PO1 Lugto positioned themselves about five (5) meters away, while the others positioned themselves a little farther.

When Paras arrived, the informant and PO2 Carlos immediately approached Paras. The informant then introduced PO2 Carlos to Paras as a close friend who placed an order for drugs. Paras then asked PO2 Carlos how much and the latter answered only ₱1,000.00. Paras extended his hand to receive the two ₱500-bill marked money and at the same time, handed to PO2 Carlos two (2) plastic sachets. Immediately, PO2 Carlos signaled his companions and identified himself to Paras as a police officer. PO1 Macadangdang handcuffed Paras while PO1 Lugto read him his rights.¹²

Thereafter, PO1 Macadangdang called for barangay officials to personally see the drugs and to witness the body search they would conduct on Paras, as well as the marking, inventory, and photographing. When Brgy. Chairman Emelie Salvador (Brgy. Chairman Salvador) and other barangay officials arrived, PO2 Carlos showed them the two (2) plastic sachets he bought from Paras. The police then proceeded to do a body search on Paras, during which, they further recovered from him two (2) ₱500-peso bills, three (3) pieces of heat-sealed transparent plastic sachets, three (3) pieces of open plastic sachets, several lighters, and other items.¹³

¹⁰ *Rollo*, p. 38.

¹¹ *Id.* at 106.

¹² *Id.* at 107.

¹³ *Id.*

PO2 Carlos marked the two (2) plastic sachets he bought from Paras as CC/AP-1 and CC/AP-2, respectively, and the three (3) sachets recovered from Paras as CC/AP-3, CC/AP-4, and CC/AP-5, respectively. Thereafter, PO2 Carlos did the inventory and photographing. All these were done in the presence of SPO1 Pajinag, Brgy. Chairman Salvador, Brgy. Kagawad Glenn Sarian and two other barangay officials. The police then brought Paras and the seized items to the Batac Police Station.¹⁴

On the turn-over of the seized items to the crime laboratory and their chemical examination, the parties dispensed with the testimonies of P/Insp. Navarro and SPO4 Domingo of the Ilocos Norte Provincial Crime Laboratory and stipulated, thus:

1. That at about 12:30 a.m. on January 28, 2015, PO3 Carlos turned over to PO1 x x x Surrel the following items: Request for Laboratory Examination; two pieces of heat-sealed transparent plastic sachets containing white crystalline substance with markings CC/AP-1, CC/AP-2; three pieces of heat-sealed transparent plastic sachets containing white crystalline substance with markings CC/AP-3, CC/AP-4 and CC/AP-5;
2. That at about 1:15 a.m. on January 28, 2015, PO1 Surrel turned over to forensic chemist Police Inspector x x x Navarro the Request for Laboratory Examination, together with the pieces of heat-sealed transparent plastic sachets containing white crystalline substance with markings CC/AP-1, CC/AP-2, CC/AP-3, CC/AP-4 and CC/AP-5.
3. That Police Inspector x x x Navarro conducted the laboratory examination on those items, and Specimens A1, A2, B1, B2 and B3 as well as C1 to C3 yielded a positive result for the presence of Methamphetamine Hydrochloride as evidenced by Chemistry Report No. D-033-2015-IN.
4. That as appearing in the said Chemistry Report, Specimen A1 is the plastic sachet with markings CC/AP-1; Specimen A2 is the plastic sachet with markings CC/AP-2; and Specimen B-1, B2 and B3 are the plastic sachets with markings CC/AP-3, CC/AP-4 and CC/AP-5, respectively.
5. That Police Inspector Navarro also conducted a drug test on the urine sample of the accused as described in the Drug Test Form x x x, and the test yielded a positive result for the presence of Methamphetamine Hydrochloride, as contained in Chemistry Report No. CDT-031-2015-IN.
6. That after conducting the drug laboratory examination, Police Inspector turned to Evidence Custodian SPO4 Nilo Domingo the said specimens, the chain of custody form and the final chemistry report.
7. That on December 2, 2015, the said specimens and documents (sic) were withdrawn from SPO4 Nilo Domingo by Police Inspector Navarro and submitted to the court.¹⁵

Version of the Defense

On January 27, 2015, around 3 o'clock in the afternoon, Paras went to a friend's house in Brgy. San Julian, Batac City where he decided to wait for the birthday celebration of his (Paras) daughter to start in the nearby

¹⁴ *Id.* at 107-108.

¹⁵ *Id.* at 108-109.

house. His daughter was living with his estranged wife and her live-in partner in Brgy. Valdez. He then got a call from a certain James Jerez (James), asking to meet with him. He told James that they could meet later in the evening so James could also attend his daughter's celebration.¹⁶

Around 6 o'clock in the evening, he arrived at his daughter's birthday party. But because the food was not enough, he agreed to buy cake from Plaza Maestro or from Cindy's bakeshop.¹⁷

Meanwhile, James called him again and asked to meet with him at Brgy. Caunayan. There, he noticed that James was talking to someone on his mobile phone. They continued walking until they reached a store where they bought cigarettes. He prodded James that they should hurry back so he could buy a cake for his daughter. But James told him they should go first to his cousin's house near Malabed Eatery to pick up some cash.¹⁸

While they were walking, James kept on texting. Along the way, they met a certain "Franz Ugalde" and his companion who invited them to the party of his daughter. James told the two they would follow later.¹⁹

When they arrived at the house of James' cousin, they called for the occupants but no one came out. He noticed a mobile patrol pass by; then a fast moving motorcycle with two (2) riders stopped behind him. Suddenly, two (2) persons were already pointing a gun at him, telling him to lie down. James ran away.²⁰

As he lay down, with his hands cuffed, PO2 Carlos approached him. He then felt someone slide something inside his pocket. When he stood up, two men called for barangay officials.²¹

He denied selling *shabu* to PO2 Carlos. He knew the latter to be a policeman as he would see him when he visited his estrange wife when she got detained at Batac City Police Station. He also saw PO2 Carlos when the latter conducted a raid at Plaza Maestro where he worked as a security guard.²²

The Ruling of the Trial Court

By Joint Judgment²³ dated January 25, 2017, the trial court found Paras guilty as charged, thus:

¹⁶ *Id.* at 111.

¹⁷ *Id.*

¹⁸ *Id.* at 112.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 112-113.

²³ Penned by Judge Francisco R. D. Quilala, *id.* at 37-57.

WHEREFORE, judgment is hereby rendered as follows:

1. In Crim. Case No. 5140-17, the accused ALLAN RAYMUND PARAS y AZCUETA is found GUILTY beyond reasonable doubt of illegal possession of dangerous drugs penalized under Section 11 of Republic Act No. 9165 as amended and is hereby sentenced to an indeterminate Penalty of IMPRISONMENT ranging from thirteen (13) years as minimum to fifteen (15) years as maximum. He is also sentenced to pay a FINE of three hundred thousand pesos (₱300,000.00).
2. In Crim. Case No. 5141-17, the accused ALLAN RAYMUND PARAS y AZCUETA is found GUILTY beyond reasonable doubt of illegal sale of dangerous drugs penalized under Section 5 of Republic Act No. 9165 as amended and is hereby sentenced to LIFE IMPRISONMENT. He is also sentenced to pay a FINE of ₱500,000.00.

SO ORDERED.²⁴

The trial court gave more credence to the testimonies of the prosecution witnesses than the denial and alibi of Paras. It found his allegation of frame-up to be unsubstantiated. It also found no ill-motive on the part of the police to falsely accuse him of such grave offenses. Too, it ruled that the police substantially complied with the chain of custody rule that preserved the integrity and evidentiary value of the *corpus delicti*.

The Ruling of the Court of Appeals

By Decision²⁵ dated June 26, 2018, the CA affirmed.

Paras' motion for reconsideration was denied under Resolution²⁶ dated September 24, 2019.

The Present Petition

Paras now prays anew for a verdict of acquittal. Essentially, he highlights the procedural gaps committed by the police: (1) there were no witnesses during the entrapment operation until his arrest and seizure of the items; (2) only the barangay officials came during the marking, inventory, and photographing of the seized items, no representatives from the Department of Justice (DOJ) and the media were present nor was their absence sufficiently explained by the police; and (3) the police officers' testimonies were replete with inconsistencies on how they planned and conducted the buy-bust operation.

²⁴ *Id.* at 57.

²⁵ *Id.* at 102-124.

²⁶ *Id.* at 126-127.

The People of the Philippines, through the Office of the Solicitor General (OSG) defends the verdict of conviction. It counters that Paras availed of an improper remedy in assailing the dispositions of the CA. He should have filed an ordinary appeal and not a petition under Rule 45, following Section 3(e), Rule 122 of the Revised Rules of Criminal Procedure. Too, the integrity and evidentiary value of the *corpus delicti* was preserved despite the procedural lapses. Thus, the prosecution proved all the elements of illegal sale and illegal possession of drugs to sustain the verdict of guilt.

Issue

Did the CA err in affirming the trial court's verdict of conviction despite the attendant procedural deficiencies in the handling of the drugs in question?

Our Ruling

We acquit.

1. The petition, albeit a wrong mode of appeal, is given due course in the interest of substantial justice.

As correctly pointed out by the OSG, the proper mode of appeal²⁷ when the CA imposes *reclusion perpetua*, life imprisonment or a lesser penalty is a notice of appeal and not a petition for review on *certiorari*.

Time and again, the Court has held that a strict and rigid application of technicalities must be avoided if it tends to frustrate rather than promote substantial justice.²⁸ Thus, the Court has suspended its own rules and excepted a particular case from their operation whenever the higher interests of justice so require.²⁹ For the same reason, therefore, the present petition is treated as an ordinary appeal, and the pleadings filed by the parties, as their respective Supplemental Briefs.³⁰

²⁷ See Section 3(e), Rule 122 in relation to Section 13, Rule 124 of the Revised Rules of Criminal Procedure.

²⁸ *Esperida v. Jurado, Jr.*, 686 Phil. 775, 784 (2012).

²⁹ *Estino v. People*, 602 Phil. 671, 694 (2009); *Agote v. Lorenzo*, G.R. No. 142675, July 22, 2005, 464 SCRA 60, 69-79 citing *Solicitor General, et al. v. The Metropolitan Manila Authority*, G.R. No. 102782, December 11, 1991, 204 SCRA 837, 842-843.

³⁰ See *People v. Bermejo*, G.R. No. 199813, June 26, 2019.

As an ordinary appeal, the entire case is thrown wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those actually raised as errors. The appeal confers upon the appellate court full jurisdiction over the case and renders such court competent to examine the records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.³¹ So must it be.

2. The prosecution failed to comply with the chain of custody rule.

A buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors. The law though requires strict compliance with the prescribed procedures laid down to ensure that rights are safeguarded.³²

In every prosecution for the illegal sale and illegal possession of dangerous drugs, the identity of the dangerous drug must be established with moral certainty. Apart from showing that the elements of the crimes are present, the fact that the dangerous drug illegally sold and illegally possessed, as in this case, is the same drug offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.³³

The chain of custody rule ensures that unnecessary doubts concerning the identity of the evidence are removed. The prosecution must account for each link in its chain of custody: *first*, the seizure and marking 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 by the forensic chemist to the court.³⁴

Here, the police inexplicably deviated from the chain of custody rule, thus, tainting the integrity and evidentiary value of the *corpus delicti*.

First, the required insulating witnesses were not present at the time of apprehension. The barangay officials were called only after the buy-bust operation and arrest of Paras. The prosecution did not even explain why the witnesses were absent during the operation itself.

³¹ *Id.*, citing *Ramos, et al. v. People*, 803 Phil. 775, 783 (2017).

³² *People v. Manabat*, G.R. No. 242947, July 17, 2019.

³³ *People v. Bermejo*, *supra*.

³⁴ See *People v. Leño*, G.R. No. 246461, July 28, 2020.

In *People v. Tampan*,³⁵ citing *People v. Adobar*,³⁶ the Court explained that the intent of the law behind the mandate that the initial custody requirements be done “immediately after seizure and confiscation,” is to have the aforesaid witnesses already physically present at the time of apprehension and seizure – a requirement that can easily be complied with by the buy-bust team, considering that the buy-bust operation is, by its very nature, a planned activity. Simply put, the buy-bust team had enough time and opportunity to bring with them these witnesses. The reason is simple: it is at the time of arrest or at the time of the drugs’ “seizure and confiscation” that the presence of the witnesses is most needed. It is their presence at that point that would insulate against the police practices of planting evidence. But here, the police failed in this requirement.

The police should not be excused from ensuring the availability of the witnesses. Paras pointed out that the police had the time to inform the witnesses of the planned operation and cited the Joint Affidavit of SPO1 Tadeja and SPO3 Baradi to prove that the police were informed of the alleged illegal activities three (3) days prior to the operation, thus:

That [on] or about 9:00 AM of January 24, 2015, our office received an information through PNP Hotline that a certain “Allan” who is a native of Badoc, Ilocos Norte but temporarily residing within this city is allegedly active in the use and trade of illegal drug.

x x x x

That at about 8:00 PM of January 25, 2015, we were able to identify “Allan” as Allan Raymund Paras y [Azcueta], a native of Badoc, Ilocos Norte but temporarily residing at Brgy. #27W Naguirangan, Batac City. He is known to have been frequently seen with unidentified male persons at the different parts of Batac City. Moreover, initial validation suggests that [the] subject is indeed involved in the sale and use of illegal drugs locally known as “shabu”.

That at about 8:00 AM of January 26, 2015, we made a report to our Chief of Police who again, instructed us to conduct anti-illegal drug police operation against Allan Raymund Paras y [Azcueta]. PSUPT. OGAY JR. also gave us two (2) pieces of P500.00 bill bearing Serial Numbers WQ 711365 and WQ711366 respectively which could be used in an entrapment [buy-bust] operation. He also gave us instruction to photocopy the same and have it authenticated by no less [than] Atty. Valentin L. Pascua Jr, City Prosecutor at about 9:18 of the same date.³⁷

Evidently, the police had been remiss of their duty to ensure compliance with the witness requirement at the time of apprehension.

³⁵ See G.R. No. 222648, February 13, 2019.

³⁶ 832 Phil. 731, 753-754 (2018).

³⁷ *Rollo*, p. 23.

Second. There was no representative from the DOJ or from the media during the marking, inventory, and photographing as only the barangay officials were called to witness the same. The trial court recognized this deficiency but ruled that it was not fatal and did not render the items seized inadmissible nor break the chain of custody. Even the CA agreed and cited the presumption of regularity on the part of the police officers to justify their substantial compliance.

We are not persuaded.

In *People v. Dela Cruz*,³⁸ we ruled that whenever there is an unjustified failure to comply with the chain of custody rule, the prosecution cannot invoke the presumption of regularity in the performance of official duty to conveniently disregard such lapse. Non-compliance obliterates proof of guilt beyond reasonable doubt, warranting a verdict of acquittal. The constitutional right to presumption of innocence indubitably prevails.

To be sure, the amendatory law only requires two (2) insulating witnesses. But still, the police failed to comply with the requirement and called in only the barangay officials. No representative from the DOJ or the media came to witness the marking, inventory, and photographing of the items seized. While the absence *per se* of the required witnesses does not render the confiscated items inadmissible, the law requires the prosecution to sufficiently explain the non-compliance with the witness requirement and to show that earnest efforts were exerted to secure their attendance. Thus, in *People v. Sarip*,³⁹ citing *People v. Ramos*,⁴⁰ we said:

Earnest effort to secure the attendance of the necessary witnesses must also be proven as held in *Ramos*, thus:

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witness under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that **the prosecution must show that earnest efforts were employed in contacting the representatives enumerated under the law for “a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.”** Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing fully well that they would

³⁸ See G.R. No. 229053, July 17, 2019.

³⁹ G.R. No. 231917, July 8, 2019.

⁴⁰ 826 Phil. 981 (2018).

have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, **police officers are compelled not only to state the reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.**⁴¹

As it was, the police here did not provide any explanation on the absence of the DOJ or media representative nor testify that they exerted earnest effort to secure the presence of this required witness.

Another. As found by the trial court, the inventory of the seized items was not signed by Paras nor by the persons who witnessed it; neither were copies of the inventory even provided them.⁴²

The absence of signatures on the inventory of seized items by the insulating witnesses and Paras himself bolsters the latter's claim that the evidence against him was indeed planted. The police did not even recognize, let alone, explain why the inventory was not signed at all, even by themselves. Undeniably, the *first link* had been incipiently broken not once but thrice by the police officers.

The *fourth and final link* pertains to the turnover and submission of the marked illegal drugs from the forensic chemist to the court. The prosecution must be able to establish the safety precautionary measures made by the forensic chemist from the time the seized items came into his or her possession until it was turned over to the court. The forensic chemist must be able to testify on the following matters: (a) when and from whom the dangerous drug was received; (b) what are the identifying labels or other things accompanying the seized drugs; (c) description of the specimen and the container it was in; and (d) the name and method of analysis used in determining the chemical composition of the subject drugs.⁴³

To dispense with the forensic chemist's testimony, both the prosecution and the defense offered for stipulation the delivery, submission and receipt of the specimens for laboratory examination and the results thereof, and the admission that the specimens brought for examination were the same ones P/Insp. Navarro examined. The prosecution, however, failed to prove the manner by which the specimens was handled and examined by P/Insp. Navarro and how these items were stored or kept in custody until they were presented as evidence in court. The lack of stipulation or testimony regarding safety precautions made after the examination of the seized items by the forensic chemist leaves a considerable room for doubt of whether there is another person outside the chain of custody who could have had the

⁴¹ *Id.* at 996-997.

⁴² *Rollo*, p. 52.

⁴³ See *People v. Omamos*, G.R. No. 223036, July 10, 2019.

opportunity to tamper with the seized drugs. The Court cannot stress enough the importance of establishing the precautions made by the forensic expert in ensuring the preservation of the integrity and evidentiary value of the seized items.⁴⁴

The prosecution failed to establish the chain of custody for every individual link could not be attached together seamlessly. It would appear that the seized drugs were not handled properly starting from the actual seizure, to its turnover in the police station, as well as its transfer to the crime laboratory for examination. The Court therefore cannot conclude with moral certainty that the drugs confiscated from Paras were the same as those submitted for laboratory examination and then presented in court.

Admittedly, a perfect chain may be impossible to obtain at all times because of varying field conditions. In fact, the Implementing Rules and Regulations (IRR) of RA 9165, as amended by RA 10640 offers a saving clause allowing leniency whenever justifiable grounds exist which warrant a deviation from established protocol so long as the integrity and evidentiary value of the seized items are properly preserved.⁴⁵ But in this case, the prosecution witnesses failed to justify their deviation from the established procedures. Thus, the condition for the saving clause to become operational was not complied with. For the same reason, the *proviso* “so long as the integrity and evidentiary value of the seized items are properly preserved,” too, will not come into play.⁴⁶

When there is a repeated breach of the chain of custody rule, as in this case, it had cast serious uncertainty on the identity and integrity of the *corpus delicti*. The metaphorical chain did not link at all, albeit it unjustly restrained petitioner’s right to liberty. Verily, therefore, a verdict of acquittal is in order.

Suffice it to state that the presumption of regularity in the performance of official duty arises only when the records do not indicate any irregularity or flaw in the performance of official duty. Applied to dangerous drugs cases, the prosecution cannot rely on the presumption when there is a clear showing that the apprehending officers unjustifiably failed to comply with the requirements laid down in Section 21, Article II of RA 9165, as amended by RA 10640 and its IRR. In any case, the presumption of regularity cannot be stronger than the presumption of innocence in favor of the accused.⁴⁷

In all, the prosecution’s inexplicable failure to comply with the chain of custody rule under Section 21, Article II of RA 9165, as amended

⁴⁴ See *People v. Pasiona*, G.R. No. 247820, October 14, 2020.

⁴⁵ See *Mendoza v. People*, G.R. No. 249587, June 23, 2020.

⁴⁶ See *People v. Bermejo*, supra.

⁴⁷ *People v. Aton*, G.R. No. 234037, December 5, 2019.

by RA 10640 rendered questionable the integrity and evidentiary value of the seized drugs. Accordingly, the guilt of Paras for violations of Section 5 and Section 11 of the same law is rendered doubtful for which a verdict of acquittal on both counts is in order.

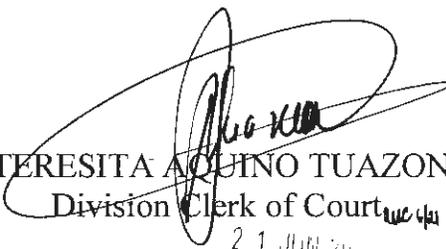
WHEREFORE, the petition is **GRANTED**. The Decision dated June 26, 2018 and Resolution dated September 24, 2019 of the Court of Appeals in CA-G.R. CR HC No. 09636 is **REVERSED and SET ASIDE**. Allan Raymund Paras is **ACQUITTED** of violation of Section 11 of Republic Act No. 9165, as amended by Republic Act No. 10640 in Criminal Case No. 5140-17 and of violation of Section 5 of the same law in Criminal Case No. 5141-17.

The Director of the Bureau of Corrections, Muntinlupa City is ordered **TO CAUSE** his immediate release, unless he is being lawfully held in custody for any other reason; and **TO SUBMIT** to the Court his compliance within five (5) days from notice.

Let an entry of judgment be immediately issued.

SO ORDERED." (J. Lopez, *J.*, additional member per Special Order No. 2822 dated April 7, 2021)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
21 JUN 2021

ATTY. JASON BADER LL. PERERA (reg)
Counsel for Petitioner
Brgy. 6, No. 62, Rizal St.
Laoag City, 2900 Ilocos Norte

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

ALLAN RAYMUND PARAS (x)
Petitioner
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 17
Batac City, Ilocos Norte
(Crim. Case No. 5140-17 & 5141-17)

*MS. JANE G. SABIDO (x)
Chief, Archives Section
Judicial Records Division, Court of Appeals
Ma. Orosa Street, Ermita
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JUDGMENT DIVISION (x)
Supreme Court, Manila

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OFFICE OF THE REPORTER (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 09636

*For this resolution only
Please notify the Court of any change in your address.
GR250415. 04/28/2021(221)URES(a) *16/14*