

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO BANTAYAN Y IGNACIO AND CHRISTOPHER MORIN Y LEONA, ACCUSED-APPELLANTS.

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GALAPATE-LAGUILLES, J:

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This is an Appeal[1] from the Joint Decision[2] dated 17 September 2012 of the Regional Trial Court of Caloocan City, Branch 127, in Criminal Case Nos. 79677 and 79678, finding accused-appellants Romeo I. Bantayan and Christopher L. Morin, respectively, guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

On 27 May 2008, two (2) separate Informations for violation of Section 11, Article II of R.A. No. 9165 were filed against Bantayan and Morin before the RTC of Caloocan City. The Informations were docketed as Criminal Case Nos. 79677 and 79678, respectively.

The inculpatory portion of the Information[3] against Bantayan, in Criminal Case No. 79677, reads:

That on or about the 25[th] day of May 2008 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control One (1) staple-sealed transparent plastic sachet containing dried MARIJUANA fruiting tops weighing 0.60 gram, which when subjected to laboratory examination gave positive result to the tests of Marijuana, a dangerous drug.

Contrary to law.

The inculpatory portion of the Information against Morin, in Criminal Case No. 79678, on the other hand, reads:

That on or about the 25[th] day of May 2008 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control One (1) staple-sealed transparent plastic sachet containing dried MARIJUANA fruiting tops weighing 0.55 gram, which when subjected to laboratory examination gave positive result to the tests of Marijuana, a dangerous drug.

Contrary to law.[4]

On 25 June 2008, Bantayan and Morin were arraigned jointly. Assisted by counsel, they pleaded "not guilty" to the offense charged.[5] Thereafter, joint trial on the merits ensued.

During the trial, the parties agreed to stipulate on the testimonies of prosecution witnesses, Police Officer 1 (PO1) Renen Malonzo and Police Chief Inspector Alberto S. Arturo, the forensic chemist.[6]

For the prosecution, the combined testimonies of PO2 German Riogelon and Purok Leader Danilo Negrete, the stipulated testimony of PO1 Renen Malonzo, as well the prosecution's pieces of evidence, established the following:

On 25 May 2008, at around 9:00 o'clock in the evening, two (2) women later identified as Leonelyn Arroza and Rosita Calijan, arrived at the Philippine National Police, Substation 3, Phase 1, Bagong Silang, Caloocan City to report a hold-up incident which allegedly took place earlier that evening. The complaint was received by duty night shift investigator PO1 Mark Andrew Bartolome.[7] Acting on the complaint of Arroza and Calijan, PO2 Riogelon and Purok Leader Negrete were dispatched to Phase 7-C, Phase 5, Bagong Silang, Caloocan City, the alleged place of the hold-up incident. They were accompanied by the complainants on board a tricycle.[8]

Upon reaching the road of Phase 7-C, Bagong Silang, Caloocan, Arroza and Calijan pointed to PO2 Riogelon and Negrete the two (2) men whom they positively identified as the ones who held them up earlier. PO2 Riogelon and Negrete alighted from the tricycle and approached the two (2) suspects but they scampered away. PO2 Riogelon and Negrete gave chase and eventually arrested the two (2) men separately.[9] The two (2) men were later on identified as Bantayan and Morin.

In the course of the arrest, PO2 Riogelon confiscated from Bantayan a red sumpak and dried marijuana leaves wrapped in a newspaper. On the other hand, Negrete seized from Morin a black sumpak and dried marijuana leaves wrapped in a newspaper. Negrete turned over the seized items to PO2 Riogelon.[10]

Thereafter, PO2 Riogelon and Negrete brought Bantayan and Morin to the Police Substation 3, Phase 1, Bagong Silang, Caloocan City, and turned over the persons of the suspects to PO1 Mark Andrew Bartolome.[11] The two (2) sumpaks seized from Bantayan and Morin were likewise turned over to PO1 Bartolome.[12] Thereat, the newspaper-wrapped marijuana leaves seized from Bantayan was marked "GR-3" by PO2 Riogelon.[13]

On 26 May 2008, Bantayan and Morin and the seized dangerous drugs were taken by PO2 Riogelon and Negrete to the Station Anti-Illegal Drugs (SAID), Caloocan City Police Station, Samson Road, Sangandaan, Caloocan City. The duty investigator PO1 Renen Malonzo issued the Evidence Acknowledgment Report[14] evidencing the turnover of the persons of Bantayan and Morin as well as the seized items.[15] PO1 Malonzo then marked the newspaper-wrapped marijuana leaves seized from Morin with "DN 3 Christopher" representing the initials of Negrete and Morin's first name.[16]

On 26 May 2008, Police Senior Inspector Christopher P. Prangan prepared a letter-request[17] for the laboratory examination of the seized marijuana.

Police Chief Inspector Albert S. Arturo, Forensic Chemist of the PNP Crime Laboratory, Northern Police District, Crime Laboratory Office Caloocan City Police, Samson Road, Sangandaan, Caloocan City, conducted a qualitative examination of the seized goods, yielding a positive result for marijuana, a dangerous drug under R.A. 9165. He then issued Physical Science Report No. D-259-08[18] dated 26 May 2008 containing his findings on the seized items.

Bantayan and Morin, on the other hand, denied the respective charges against them and set forth the following facts:

Bantayan testified that on 25 May 2008, at around 4:00 o'clock in the afternoon, he was at his residence in Bagong Silang, Caloocan City, when three (3) men came looking for him. He approached them and much to his surprise, he was immediately handcuffed. He was then informed that a complaint for robbery/hold-up was being lodged against him. Bantayan protested claiming that he had nothing to do about it. He was made to board a tricycle where he saw Morin inside.[19]

Bantayan and Morin were brought to the police station where they were detained. Thereafter, two (2) female complainants came and identified Bantayan and Morin as the hold-uppers. The next day, when he was brought for inquest, he learned that he was being charged for illegal possession of dangerous drugs.[20]

For his part, Morin testified that on 25 May 2008, he was standing by at the pathwalk at Package 2, Bagong Silang, Caloocan City, when a tricycle stopped in front of him. PO2 Riogelon and Negrente alighted therefrom and approached him. They told him that they were verifying a hold-up incident, thus, he went with them voluntarily.[21]

On board the tricycle, Morin, together with PO2 Riogelon and Negrete, proceeded to the house of Bantayan. From there, Bantayan and Morin were brought to the police station wherein two (2) female complainants arrived and pointed at them as the hold-uppers.[22]

On 17 September 2012, the RTC rendered the assailed Joint Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring accused Romeo Bantayan y Ignacio in Crim. Case No. 79677 for Violation of Sec. 11, Art. II, R.A. 9165 guilty beyond reasonable doubt and is hereby sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day as the minimum, to seventeen (17) years and eight (8) months as the maximum, and to pay the fine of Three Hundred Thousand Pesos (P300,000.00). Likewise, in Criminal Case No. 79678 for Violation of Section 11, Art. II, R.A. No. 9165 the prosecution having proved the guilty of the accused Christopher Morin y Leona, he is hereby sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day as the minimum, to seventeen (17) years and eight (8) months as the maximum, and to pay the fine of Three Hundred Thousand Pesos (P300,000.00).

The drugs subject of these cases are hereby ordered forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.

Hence, the instant Appeal imputing the following assignment of errors to the RTC, viz:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTION 11, ARTICLE II OF REPUBLIC ACT NO. 9165.

II.

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE WITH CERTAINTY THE CORPUS DELICTI OF THE OFFENSE CHARGED.[23]

In their Brief, Bantayan and Morin postulate that the prosecution was not able to discharge its burden of proving their guilt of the crime charged beyond reasonable doubt. They highlight that there was no observance of the requirements of Section 21, Article II of Republic Act No. 9165. They maintain that this failure of the police officers to immediately mark the dangerous drugs as well as have the same inventoried and photographed in their presence or their representatives, or the designated their counsel or a member of the DOJ or media or elected public official strikes at the very heart of the integrity and identity of the corpus delicti of the crime of illegal possession of dangerous drugs.[24]

The Office of the Solicitor General (OSG), on the other hand, representing the People of the Philippines, argues that the arresting officers sufficiently showed compliance with the rules on chain of custody required under R.A. No. 9165 and its implementing rules.[25]

After a circumspect study, the Court resolves to acquit accused-appellant, considering certain circumstances

which engender reasonable doubt as to his guilt.

For the successful prosecution of illegal possession of dangerous drugs, like marijuana, the following essential elements must be established: (a) the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the drug.[26]

In the prosecution of illegal possession of dangerous drugs, the dangerous drug itself constitutes the very corpus delicti of the offense and, in sustaining a conviction therefor, 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-appellant; otherwise, the prosecution for illegal possession of dangerous drugs under R.A. No. 9165 fails.[27]

The procedural safeguards start with the requirements prescribed by Section 21 of R.A. No. 9165 relating to the custody and disposition of the confiscated, seized, and surrendered dangerous drugs, plant sources of the dangerous drugs, controlled precursors and essential chemicals, instruments and paraphernalia, and laboratory equipment.[28] The provision relevantly 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. – xxx:

(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; xxx (Emphasis supplied)

The foregoing provision is elaborated in Section 21(a), Article II of the Implementing Rules and Regulations of R.A. No. 9165, which states:

(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)

This duty of seeing to the integrity of the dangerous drugs and substances is discharged only when the arresting law enforcer ensures that the chain of custody is unbroken.[29] Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002 (which implements R.A. No. 9165) specifically defines chain of custody, to wit:

“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 used in court as evidence, and the final disposition;”

Marking of the item seized is the first link in the chain of custody. The normative way of marking seized items was expounded in *People v. Sanchez*,^[30] thus:

[I]n case of warrantless seizures such as a buy- bust operation, the physical inventory and photograph shall be conducted at the nearest police station or office of the apprehending officer/team, whichever is practicable; however, nothing prevents the apprehending officer/team from immediately conducting the physical inventory and photography of the items at the place where they were seized, as it is more in keeping with the law’s intent of preserving their integrity and evidentiary value.

What Section 21 of R.A. No. 9165 and its implementing rule do not expressly specify is the matter of "marking" of the seized items in warrantless seizures to ensure that the evidence seized upon apprehension is the same evidence subjected to inventory and photography when these activities are undertaken at the police station rather than at the place of arrest. Consistency with the "chain of custody" rule requires that the "marking" of the seized items – to truly ensure that they are the same items that enter the chain and are eventually the ones offered in evidence – should be done (1) in the presence of the apprehended violator (2) immediately upon confiscation. This 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 under Section 29 and on allegations of robbery or theft. (Emphasis and underscoring supplied)

For greater specificity, "marking" means the placing by the apprehending officer or the poseur-buyer of his/her initials and signature on the item/s seized. If the physical inventory and photograph are made at the nearest police station or office as allowed by the rules, the inventory and photography of the seized items must be made in accordance with Sec. 2 of Board Resolution No. 1, Series of 2002, but in every case, the apprehended violator or counsel must be present. Again, this is in keeping with the desired level of integrity that the handling process requires. Thereafter, the seized items shall be placed in an envelope or an evidence bag unless the type and quantity of the seized items require a different type of handling and/or container. The evidence bag or container shall accordingly be signed by the handling officer and turned over to the next officer in the chain of custody. (Emphasis and underscoring supplied)

From the foregoing, the case of *Sanchez* explains that R.A. No. 9165 does not specify a time frame for “immediate marking,” or where said marking should be done. To be able to create a first link in the chain of custody, then, what is required is that the marking be made in the presence of the accused and upon immediate confiscation. “Immediate confiscation” has no exact definition.^[31] Thus, in *People v. Gum-Oyen*,^[32] testimony that included the marking of the seized items at the police station and in the presence of the accused was sufficient in showing compliance with the rules on chain of custody. Marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.

Here, it is notable that PO2 Riogelon, although specifically recalling having marked the newspaper-wrapped marijuana leaves seized from Bantayan with “GR-3” at the police station, did not state, as the following excerpts from his testimony indicate, if he had made his marking in the presence of Bantayan himself or his representatives. Thus:

DIRECT-EXAMINATION

x x x

Q: If shown to you those pieces of evidence, the dried marijuana leaves wrapped in a newspaper[,] will you be able to identify the same?

A: Absolutely, sir.

Q: How will you be able to identify those two pieces of dried marijuana leaves wrapped in a newspaper?

A: There was marking, sir at the top of the newspaper.

Q: And what was that marking?

A: It was marked as GR-3 representing my name and Romeo, sir.

Q: What about on the other newspaper wrapping?

A: It was also marked by the investigator as DN representing the name of the purok leader Danny Nigrete (sic) and Christopher, sir.

Q: So[,] it was the investigator who made these markings?

A: Yes, sir.

Q: How were you able to know that it was the investigator who marked these?

A: It was turned over to him, sir because he is the duty investigator of Station Anti Illegal Drugs.

Q: Where were you when he made these markings during that time?

A: I was there personally with him, sir.

Q: I'm showing to you two newspaper wrappings containing dried marijuana leaves[,] can you please tell us what relation has this to the one you said marked by the investigator?

A: This is the one which I confiscated from Romeo Bantayan (Witness identifying Exhibit C-1) and the other one it was confiscated by Danny Nigrete (Witness identifying Exhibit C-2).

Q: When these two newspaper wrappings were submitted to this Honorable Court it was placed in a plastic sachet with marking SS-3 dated May 25, 2008[,] would you know where this plastic sachet came from?

A: I think it was from the investigator, sir.

Q: Would you also know who marked this SS-3?

A: The investigator also[,] PO1 Mark Andrew Bartolome, sir.

Q: These two persons whom you and Danny Nigrete (sic) arrested at that time, were you able to ascertain their identities?

A: Yes, sir.

Q: And who were these persons?

A: They were inside this courtroom, sir.

Q: What are their names?

A: The person which (sic) I apprehended is Romeo Bantayan and the other one which (sic) was apprehended by Danny Nigrete was Christopher Morin, sir.[33]

x x x

Q: What happened next after the apprehension of these two persons Mr. Witness?

A: Without any hesitation we immediately turned them over to Sub Station 3, Phase 1, Bagong Silang, Caloocan City through PO1 Mark Andrew Bartolome, sir.

Q: As regards these dangerous drugs which you confiscated from the persons of the accused in these cases which you and Danny Nigrete were able to confiscate from their possession, what did you do with these Mr. Witness?

A: It was turned over to the Station Anti Illegal Drugs, Caloocan City through the duty investigator PO1 Renen Malonzo, sir.

Q: Who was in custody of these two newspaper wrappings containing dried marijuana leaves from the place of apprehension to the office of SAID- SOU?

A: Me and Danny Nigrete (sic), sir.[34]

x x x

Q: And even the items recovered by Danny Nigrete were given to you?

A: Yes, your Honor[,] he turned it over to me right after confiscation.

Q: The two marijuana and the two sumpak?

A: Yes, your Honor even the sumpak.[35]

x x x

Q: Where was the newspaper wrapping of marijuana confiscated from Romeo Bantayan placed?

A: Also in another plastic together with the colored red sumpak, sir.

Q: How about the other newspaper wrapping of marijuana?

A: Together with the colored black sumpak, sir.

Q: What did you do with these two separate pieces of evidence which you confiscated from the possession of the accused in this case?

A: We properly turned it over to the night shift duty investigator PO1 Mark Andrew Bartolome, sir.

Q: And as regards the marijuana wrapped in the newspaper what did you do with the same?

A: We turned over the said dried marijuana leaves to the investigator of Station Anti Illegal Drugs through P01 Renen Malonzo, sir.

Q: Do you have proof that you turn[ed] over these pieces of dried marijuana leaves placed in the newspaper wrapper to PO1 Rene Malonzo?

A: There was an Evidence Acknowledgment Receipt, sir.[36]

x x x

It will be observed also from the foregoing testimony of PO2 Riogelon that the person who had initial custody of the dangerous drugs seized from Morin was not a police officer, but a purok leader - a person who was not expected to be familiar with the niceties of the procedures required of law enforcers in the initial handling of the confiscated evidence. However, Negrete, the purok leader, immediately turned over the seized items (black sumpak and the newspaper-wrapped marijuana leaves) to PO2 Riogelon at the crime scene. As shown below in the stipulated testimony of PO1 Malonzo, he made the marking "DN-3 CHRISTOPHER" when the newspaper-wrapped marijuana leaves seized from Morin, together with the newspaper-wrapped marijuana leaves from Bantayan, was turned over to him at the Station Anti-Illegal Drugs in Caloocan City Police Station, Samson Road, Sangandaan, Caloocan City, on 26 May 2008 or a day after Bantayan and Morin were apprehended. PO1 Malonzo's stipulated testimony, nonetheless, is also silent whether the marking was done in the presence of Morin or his representatives. Thus:

PROS. CANSINO

Q: Mr. Witness, when the Forensic Chemist turned over to you the specimen subject of this case which was placed in a transparent plastic sachet with markings SS3-EVIDENCE dated May 25, 2008 where did this transparent plastic sachet came from and which of these were marked by you?

A: I was the one who provided the transparent plastic sachet and I marked it, sir.

Q: Which of the two did you mark?

A: This one, sir.

COURT INTERPRETER:

Witness pointing to marking SS3 EVIDENCE 05-2508, which was previously marked as "C-1."

PROS. CANSINO:

Mr. Witness, the transparent plastic sachet containing suspected dried marijuana leaves, I have noticed that there are marking in these two newspaper wrapping, tell us which of these markings were already there and when you received it which marking were made by you, if any?

WITNESS:

The marking DN-3 (CHRISTOPHER) which I placed in the second newspaper wrapping, sir.

COURT INTERPRETER:

Witness identifying Exhibit "C-3" and the one with marking GR-3 (ROMEO) previously marked as Exhibit "C-2"

WITNESS:

The first newspaper wrapping with marking GR-3 (ROMEO) was already marked when we received it, sir.

PROS. CANSINO:

Q: Who make the marking GR-3?

A: I do not know, sir.

COURT:

Q: You're saying that there are two investigators in this case?

A: The other one is the investigator for the illegal possession of firearms and ammunition, your Honor.

Q: So, there are two cases for the accused?

A: There also (sic) a case for Robbery Hold-up Republic Act 8294 for Illegal Possession of firearms and ammunition, when the specimen was turned over to me the first newspaper wrapped with marijuana fruiting tops was already marked as GR-3, sir.

x x x

COURT:

So, the marking that made before the specimen [was] turned over to you might place (sic) by the other investigator?

A: Maybe, your Honor.[37]

x x x

It is quite baffling why PO1 Malonzo marked the newspaper-wrapped marijuana leaves confiscated from Morin when he had no participation in its seizure. Another befuddling point is that the Evidence Acknowledgment Receipt would show that apart from the seized dangerous drugs, the persons of Bantayan and Morin were likewise taken to the Station Anti-Illegal Drugs, Caloocan City Police Station, Samson Road, Sangandaan, Caloocan City. PO2 Riogelon or PO1 Malonzo failed to explain why despite the presence of Morin at the Station Anti-Illegal Drugs, the newspaper-wrapped marijuana leaves seized from him was not marked in his presence. To harp back to the quoted testimony of PO2 Riogelon, the latter merely stated that he witnessed the marking made by PO1 Malonzo on the newspaper-wrapped marijuana leaves confiscated from Morin. His testimony does not indicate whether the marking made by PO1 Malonzo on the newspaper-wrapped marijuana leaves seized from Morin was done in the latter's presence. We note in this regard that it is not enough that the seized drug be marked; the marking must likewise be made in the presence of the apprehended violator.[38]

Verily, the failure of the police officers to mark the dangerous drugs in the presence of Bantayan and Morin immediately after their seizure constitute a huge and significant gap in the chain of custody which substantially affects the identity of the corpus delicti.

The second link in the chain of custody that the prosecution failed to establish refers to the requisite physical inventory and photograph of the confiscated drugs as required by Section 21, paragraph 1, Article II of R.A. No. 9165. The procedural lapse is plainly evident from the testimonies of prosecution witnesses, particularly PO2 Riogelon, who made no mention whether they conducted physical inventory and photograph of the seized drugs in the presence of Bantayan and Morin or the other persons designated by the law. In fact, the Joint Affidavit[39] of Bantayan and Negrete executed on 27 May 2008 made no mention of any inventory taking or photographing of the same. Corollarily, there was no certificate of inventory or inventory receipt and photographs of the seized

drugs attached to the records. This forged again a material gap in the chain of custody of the seized contraband.

In *People v. Gonzales*,^[40] the police failed to conduct an inventory and to photograph the seized plastic sachet. In acquitting the accused based on reasonable doubt, the High Court explained that [t]he omission of the inventory and photographing exposed another weakness of the evidence of guilt, considering that the inventory and photographing — to be made in the presence of the accused or his representative, or within the presence of any representative from the media, Department of Justice or any elected official, who must sign the inventory, or be given a copy of the inventory — were really significant stages of the procedures outlined by the law and its IRR.

We recognize that strict compliance with the legal prescriptions of R.A. No. 9165 may not always be possible. Section 21(a), Article II of the IRR, in fact, offers some flexibility in complying with the express requirements under paragraph 1, Section 21, Article II of R.A. No. 9165, i.e., "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[.]" This saving clause, however, applies only where the prosecution recognized the procedural lapses and thereafter cited justifiable grounds to explain them. In all cases, the prosecution must have established that the integrity and evidentiary value of the evidence seized had been preserved.^[41]

In the case at hand, PO2 Riogelon and PO1 Malonzo failed to show any valid justifiable reasons for the non-compliance with the procedure laid out in the aforesaid provision of the implementing rules.

Under the circumstances, however, reliance on the presumption of regularity in the performance of duties is not enough for a conviction. Once challenged by evidence of flawed chain of custody, as in this case, the presumption of regularity cannot prevail over the presumption of innocence.^[42]

Based on the foregoing discussion, the prosecution failed to establish that the integrity of the seized dangerous drugs was preserved. Therefore, it cannot be concluded with moral certainty that the dangerous drugs allegedly seized from Bantayan and Moin were the same drugs brought to the crime laboratory and eventually presented before the court *quo*. In other words, the *corpus delicti* of the offense was not established with unwavering exactitude. Thus, the prosecution's evidence has not successfully overcome the presumption of innocence in favor of the accused, herein Bantayan and Morin.

Perforce, this Court is constrained to acquit Bantayan and Morin on reasonable doubt. As the Supreme Court once held, "when moral certainty as to culpability hangs in the balance, acquittal on reasonable doubt inevitably becomes a matter of right."^[43]

WHEREFORE, premises considered, the Joint Decision dated 17 September 2012 of the Regional Trial Court of Caloocan City, Branch 127, in Criminal Case Nos. 79677 and 79678, is hereby REVERSED and SET ASIDE. Accordingly, accused-appellants Romeo I. Bantayan and Christopher L. Morin are ACQUITTED based on reasonable doubt and are ordered immediately RELEASED from detention, unless they are confined for any other lawful cause/s.

The Director of the Bureau of Corrections is DIRECTED to IMPLEMENT this Decision with deliberate dispatch and to report to this Court the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.

Punzalan Castillo, M.P., Chairperson, and Macalino, F.S., JJ., concur.

[1] Rollo, pp. 69-89. See Appellants' Brief.

- [2] Original Records, pp. 198-210. Penned by Victoriano B. Cabanos.
- [3] *Id.*, p. 2.
- [4] *Id.*, p. 9.
- [5] *Id.*, p. 18. See Certificate of Arraignment dated June 25, 2008.
- [6] *Id.*, p. 200.
- [7] TSN, March 18, 2009, pp. 4-5.
- [8] TSN, March 18, 2009, pp. 6-9.
- [9] TSN, March 18, 2009, pp. 9-10.
- [10] TSN, March 18, 2009, pp. 10-11 and pp. 14-15.
- [11] TSN, March 18, 2009, pp. 13-14.
- [12] TSN, March 18, 2009, p. 16.
- [13] TSN, March 18, 2009, p. 12.
- [14] Folder of Exhibits for the Prosecution and Defense, p. 5, Exhibit “D.”
- [15] TSN, March 18, 2009, pp. 14 and 15.
- [16] TSN, February 18, 2009, p. 6.
- [17] Folder of Exhibits for the Prosecution and Defense, p. 2, Exhibit “A.”
- [18] Folder of Exhibits for the Prosecution and Defense, p. 3, Exhibit “B.”
- [19] TSN, November 9, 2010, pp. 3-7.
- [20] TSN, November 9, 2010, pp. 7-9.
- [21] TSN, March 22, 2011, pp. 4-6.
- [22] TSN, March 22, 2011, pp. 7-9.
- [23] Rollo, p. 71.
- [24] *Id.*, pp. 76-80.
- [25] *Id.*,
- [26] *Marquez v. People*, G.R. No. 197207, March 13, 2013.
- [27] *Valencia v. People*, G.R. No. 198804, January 22, 2014.
- [28] *Reyes v. Court of Appeals*, G.R. No. 180177, April 18, 2012.
- [29] *Reyes v. Court of Appeals*, *supra*.
- [30] G.R. No. 175832, October 15, 2008, 569 SCRA 194.
- [31] *People v. Dumalag*, G.R. No. 180514, April 17, 2013.
- [32] G.R. No. 182231, April 16, 2009.

[33] TSN, March 18, 2009, pp. 12-13.

[34] TSN, March 18, 2009, pp. 13-14.

[35] TSN, March 18, 2009, p. 14.

[36] TSN, March 18, 2009, p. 16.

[37] TSN, February 18, 2009, pp. 5-7.

[38] People v. Sabdula, G.R. No. 184758, April 21, 2014.

[39] Folder of Exhibits for the Prosecution and Defense, p. 7, Exhibit "F."

[40] G.R. No. 182417, April 3, 2013.

[41] People v. Sabdula, *supra*.

[42] People v. Peralta, G.R. No. 173472, February 26, 2010.

[43] People v. Roble, G.R. No. 192188, April 11, 2011.

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