

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MONALYN CERVANTES Y SOLAR, ACCUSED-APPELLANT.

G.R. No. 181494. March 17, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the Decision dated July 19, 2007 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00476 which affirmed the April 23, 2004 Decision in Criminal Case No. 00-181929 of the Regional Trial Court (RTC), Branch 53 in Manila. The RTC found accused-appellant Monalyn Cervantes guilty beyond reasonable doubt of violation of Section 15, Article III of Republic Act No. (RA) 6425 or the Dangerous Drugs Act of 1972, as amended.

The records show the following facts:

In an Information dated April 7, 2000, accused-appellant and three others were charged with violation of Sec. 15, Art. III of RA 6425 (selling or distributing a regulated drug), allegedly committed as follows:

That, on or about April 5, 2000, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, accused ISIDRO ARGUSON y ARENDELA, @ Tisoy, MONALYN [CERVANTES] y SOLAR @ Mona, WILSON DEL MONTE @ Wilson and RICHARD REQUIZ @ Richard, conspiring, confederating and mutually helping one another, acting in common accord, did then and there, willfully, unlawfully and feloniously, for the amount of FIVE HUNDRED THOUSAND (P500,000.00) PESOS, Philippine Currency, sell, deliver and give away to a poseur-buyer, FOUR HUNDRED SEVENTY THREE POINT SEVENTY SIX (473.76) GRAMS OF METHAMPHETAMINE [HYDROCHLORIDE], commonly known as shabu, a regulated drug, without authority of law or the corresponding license therefor.

CONTRARY TO LAW.[1]

Accused-appellant and her co-accused pleaded not guilty to the charge. In the ensuing trial, the prosecution presented in evidence the oral testimonies of William Todavia, PO3 Reynaldo Ramos of the Philippine National Police Regional Office IV (PNP R-IV), and P/Sr. Inspector Lorna Tria, a forensic chemical officer of the same regional office.

The People's version of the incident, as summarized by the CA in the decision now on appeal, is as follows:

On April 5, 2000, the Regional Special Operations Group IV (RSOG-IV), based at Camp Vicente Lim in Calamba, Laguna, received a tip from a deep penetration agent (DPA) about a group of drug traffickers led by Isidro Arguson operating in Cavite. Acting on this bit of information, a team led by SPO2 Geronimo Pastrana, PO3 Ramos, and PO2 Emerson Balosbalos arranged a buy-bust operation to be conducted at Arguson's rest house in Barangay Lambingan, Tanza, Cavite.[2] Upon arriving at the rest house, PO3 Ramos and PO2 Balosbalos, acting as poseur-buyers, were introduced by the DPA to Arguson as the buyers of PhP 500,000 worth of shabu, simultaneously showing him a bundle of money. Since Arguson did not have enough supply of shabu in the

premises, he instructed the would-be-buyers to follow him to Pasay City. For the purpose, he hired a vehicle owned by Todavia.

At about three o'clock in the afternoon of that day, in front of the McDonald's branch in P. Ocampo St., Pasay City,[3] Arguson instructed the would-be-buyers to wait for someone who will come out from the nearby Estrella St. Very much later, accused-appellant emerged from Estrella St. and approached PO3 Ramos to check if he still had the money. After being shown the money bundle, accused-appellant left, only to return a few minutes later this time with Arguson, Wilson Del Monte, who was holding a black plastic bag, and Richard Requiz. Arguson then took from Del Monte the bag, later found to contain 473.76 grams of shabu packed in six small self-sealing transparent bags, and handed it to PO2 Balosbalos, who in turn gave him the bundle of boodle money. Finally, PO3 Ramos gave the pre-arranged signal to indicate the consummation of the drug deal and introduced himself as policeman. Accused-appellant and her scampering companions were later arrested and brought to and booked at Camp Vicente Lim.

The black plastic bag containing the six small self-sealing bags of white crystalline substance was likewise taken to Camp Vicente Lim where PO3 Ramos prepared the booking sheets and arrest reports and the request for a qualitative analysis of the seized items. Regional Crime Laboratory Office IV Chief Inspector (C/I) Mary Jean Geronimo then conducted the standard physical and chemical examinations on the specimen referred to her.

On April 6, 2000, C/I Geronimo prepared and completed Chemistry Report No. D-115800 on the crystalline substance. Per her report, the substance tested positive for methamphetamine hydrochloride or shabu.

Apart from the witnesses' affidavits and other documents, the prosecution, in the hearing of March 4, 2002, offered in evidence the following exhibits,[4] inclusive of its sub markings, which, as may be expected, were objected to by the defense: (a) Exhibit "B" - Chemistry Report No. D-115800 prepared by C/I Geronimo; (b) Exhibit "C" - Memorandum of RSOG-IV dated April 5, 2000 to the Chief, Laboratory Service, requesting for qualitative analysis of the contents of the six transparent plastic bags; (c) Exhibits "D" and "D-1" to "D-6" - Black plastic bag with markings; and six (6) self-sealing transparent bags allegedly containing the confiscated shabu; and (d) Exhibit "F" - Receipt of property seized signed by PO2 Balosbalos and by Todavia and PO3 Ramos as witnesses.

The CA decision likewise summarized the defense's account of what purportedly transpired, to wit:

Accused-appellant testified that after she did laundry works at her house in Estrella Street near F.B. Harrison on April 4, 2000, her youngest child asked her to go to [McDonald's], Vito Cruz branch, to buy ice cream. When they arrived thereat at about 4:30 in the afternoon, there was a commotion going on in front of the restaurant. She then saw a woman who alighted from a nearby van and pointed her out to her companions, one of whom [was] an old man boarded her inside the van causing her to lose hold of her child. Thereafter, two (2) younger male persons, whom she later came to know as DEL MONTE and REQUIZ, were also boarded into the same van. They were taken to a cemetery where another vehicle came and took them to Camp Vicente Lim, where she allegedly met ARGUSON for the first time.

On the other hand, accused DEL MONTE testified that he was a parking boy around Vito Cruz and that on the day in question, while he was watching a vehicle near [McDonald's], Vito Cruz branch, a commotion happened near his post. As he moved backward from where he stood, he was suddenly approached by a policeman who arrested him and boarded him inside a vehicle together with CERVANTES and REQUIZ, whom he did not know prior to that incident.

For his part, accused REQUIZ testified that on the date and time in question, he was riding a borrowed bicycle on his way to the Cultural Center, passing by F.B. Harrison St., when he bumped a parked van, wherefrom a man alighted and cursed him, saying "pulis ako wag kang aalis dyan[!]" The man left and when he returned,

accused CERVANTES was with him. Thereafter, he was boarded into the van together with the other accused.[5]

While not stated in the CA decision, Del Monte testified, like accused-appellant, that he was taken to a cemetery somewhere in Cavite where the arresting officers lingered for an hour before bringing him to Camp Vicente Lim.[6] These testimonies remained uncontroverted. Arguson died during the course of the trial resulting in the dismissal of the case against him.[7]

On April 23, 2004, the RTC rendered judgment acquitting Del Monte and Requiz but finding accused-appellant guilty as charged and meting upon her the penalty of reclusion perpetua. The fallo of the RTC Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered:

- Finding accused MONALYN CERVANTES Y SOLAR GUILTY beyond reasonable doubt of violation of Sec. 15, Article III, of Republic Act No. 6425 as amended, and is sentenced to Reclusion Perpetua and to pay a fine in the amount of Php500,000.00; and
- Finding the prosecution's evidence insufficient to prove the guilt of accused WILSON DEL MONTE and RICHARD REQUIZ beyond reasonable doubt, and who are hereby ACQUITTED.

SO ORDERED.[8]

On May 18, 2004, accused-appellant filed a Notice of Appeal, pursuant to which the RTC forwarded the records of the case to this Court.

Conformably with *People v. Mateo*,[9] the Court directed the transfer of the case to the CA where it was docketed as CA-G.R. CR-H.C. No. 00476. Before the appellate court, accused-appellant urged her acquittal on the ground of "insufficiency of evidence," particularly stating that the "forensic chemist who actually conducted the laboratory examination on the specimens allegedly recovered from the accused was not presented in court x x x [and] hence, there was no clear identification of the contents of the confiscated sachets." [10]

By its Decision[11] dated July 19, 2007, the CA, finding the elements necessary for the prosecution of illegal sale of drugs[12] to have sufficiently been satisfied and the identification of accused-appellant having been established, affirmed her conviction.

The CA rejected accused-appellant's lament about one Inspector Tria testifying on the chemistry report she did not prepare. As the appellate court stressed, C/I Geronimo's forensic report "carries the presumption of regularity in the performance of official functions [and] the entries thereon x x x are prima facie evidence of the facts therein stated." The CA added the observation that absent any evidence overturning the presumption of regularity in the performance of official functions, the probative value and admissibility of the forensic report prepared by C/I Geronimo, who had resigned from the service, must be upheld even if she did not personally testify in court.

On August 17, 2007, accused-appellant filed a Notice of Appeal of the CA affirmatory decision.

On March 24, 2008, this Court required the parties to submit supplemental briefs if they so desired. The parties manifested their willingness to submit the case on the basis of the records already submitted, thus veritably reiterating their principal arguments raised in the CA, which on the part of accused-appellant would be:

THE [CA] GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE OFFENSE CHARGED DESPITE THE INSUFFICIENCY OF EVIDENCE FOR THE PROSECUTION.

For its part, the People, thru the Office of the Solicitor General, counters that the prosecution has established that the buy-bust transaction took place, has identified accused-appellant and her complicity in Arguson's illegal trade,

and has presented the corpus delicti, as evidence.

The Court's Ruling

After a circumspect study, the Court resolves to acquit accused-appellant, considering certain circumstances engendering reasonable doubt as to her guilt.

We start off with the most basic, the testimony of the prosecution's principal witness, PO3 Ramos, who identified accused-appellant and described her role in the conspiracy to sell shabu. In the witness box, PO3 testified that, after being told by Arguson to wait for someone who will come out from the street whence Arguson would enter, accused-appellant emerged from said street, checked on the purchase money, asked the operatives to wait, and later re-appeared. What happened next is captured by the following answers of PO3 Ramos to the prosecutor's questions:

Q:

What did you see when Cervantes already returned? A: When Monalyn return the one holding the plastic bag was Wilson, sir.

Q: Wilson? A: Yes, sir, together with Richard, Wilson, Arguson, they were four (4).

Atty. Cruz: Your honor, may we move to strike that out x x x.

Fiscal Formoso:

That's part of the answer x x x now, when all these accused here return with Monalyn Cervantes, what happen[ed]?

A:

Arguson took the plastic bag from Wilson, sir and handed it to Balosbalos, Balosbalos gave Arguson the boodle money while I flash the signal x x x then we apprehended them.[13]

As may be noted, PO3 Ramos categorically stated that Del Monte was among the four who emerged with Arguson from a street. Without hesitation, PO3 Ramos pointed to Del Monte as the one holding the plastic bag allegedly containing the prohibited substance until Arguson took it from him and handed it over to PO2 Balosbalos. There is no suggestion that accused-appellant, while at the crime scene, ever handled the merchandise or its container. Yet, the trial court acquitted Requiz and Del Monte, but convicted accused-appellant, stating: "Clearly, accused Monalyn Cervantes' complicity with accused Isidro Arguson in the sale of shabu has been established by the testimony of PO3 Ramos." [14] But two paragraphs later, the RTC went on to write:

x x x While PO3 Ramos testified that the bag was initially held by accused Del Monte and then taken from him by accused Arguson, there is no other evidence which can support the charge of conspiracy with Arguson and Cervantes x x x. The court does not find the evidence sufficient to pass the test of moral certainty to find accused Del Monte liable as charged. Even if PO3 Ramos saw him to have held the bag for Arguson, it could have been possible that he was merely asked by Cervantes or Arguson to carry the bag.[15]

Before us then is a situation where two persons--accused-appellant, a laundry woman; and Del Monte, a car park boy, in the company of the ostensible pusher, Arguson, during the actual buy bust--are being indicted, on the basis alone of the testimony of a witness, with confederating with each and several others to sell shabu. The overt acts performed by accused-appellant, as indicia of conspiracy, consisted of allegedly verifying whether the poseur-buyer still had the purchase money, disappearing from the scene and then coming back with the principal player. On the other hand, Del Monte came accompanying Arguson carrying the drug-containing plastic bag no less. As between the two acts performed, carrying the bag would relatively have the more serious implication

being in itself a punishable act of possession of regulated drugs. Both offered the defenses of denial and instigation, each testifying that they just happened to be near or passing by McDonald's at about 4:30 in the afternoon of April 4, 2000 when they were apprehended. But the trial court, in its observation that "it could have been possible that [Del Monte] was merely asked by x x x Arguson to carry the bag," extended to Del Monte the "benefit of the doubt," a benevolence denied to accused-appellant without so much of an acceptable explanation. Any reasonable mind might ask: Why the contrasting treatment? Why consider PO3 Ramos as a highly credible eyewitness as against accused-appellant, but an unreliable one as against Del Monte, when both accused are complete strangers to the policeman?

To paraphrase an unyielding rule, if the inculpatory testimony is capable of two or more explanations, one consistent with the innocence of the accused persons and the other consistent with their guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction.[16]

But even if we were to cast aside the foregoing equipoise rule, a reversal of the appealed decision is indicated on another but more compelling ground. We refer to the postulate that the prosecution, having failed to positively and convincingly prove the identity of the seized regulated substance, is deemed to have also failed to prove beyond reasonable doubt accused-appellant's guilt. We shall explain.

In every prosecution for illegal sale of dangerous drug, what is crucial is the identity of the buyer and seller, the object and its consideration, the delivery of the thing sold, and the payment for it. Implicit in these cases is first and foremost the identity and existence, coupled with the presentation to the court of the traded prohibited substance, this object evidence being an integral part of the corpus[17] delicti[18] of the crime of possession or selling of regulated/prohibited drug.[19] There can be no such crime when nagging doubts persist on whether the specimen submitted for examination and presented in court was what was recovered from, or sold by, the accused.[20] Essential, therefore, in appropriate cases is that the identity of the prohibited drug be established with moral certainty. This means that on top of the key elements of possession or sale, the fact that the substance illegally possessed and sold in the first place is the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict. And as we stressed in *Malillin v. People*, the "chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed." [21] So it is that in a slew of cases the Court has considered the prosecution's failure to adequately prove that the specimen submitted for laboratory examination was the same one supposedly seized from the offending seller or possessor as ground for acquittal.[22]

Sec. 1(b) of the Dangerous Drugs Board Regulation No. 1, Series of 2002, or the "Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment," defines "chain of custody," thusly:

"Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals x x x 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 [was] made in the course of safekeeping and use in court as evidence, and the final disposition.[23]

As a mode of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. In context, this would ideally include testimony about every link in the chain, from the seizure of the prohibited drug up to the time it is offered into evidence, in such a way that everyone who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness'

possession, the condition in which it was received, and the condition in which it was delivered to the next link in the chain.[24] The need for the punctilious observance of the chain-of-custody process in drug-related cases is explained in *Malillin* in the following wise:

While testimony about a perfect chain is not always the standard because it is almost always impossible to obtain, an unbroken chain of custody becomes indispensable and essential when the item of real evidence is not distinctive and is not really identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is susceptible to alteration, tampering, contamination and even substitution and exchange. In other words, the exhibit's level of susceptibility to fungibility, alteration or tampering--without regard to whether the same is advertent or otherwise not--dictates the level of strictness in the application of the chain of custody rule.

x x x x

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases--by accident or otherwise--in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.[25] (Emphasis added.)

As the Court distinctly notes in this case, of the individuals who came into direct contact with or had physical custody of the seized regulated items, only PO3 Ramos testified for the specific purpose of identifying the evidence. In the witness box, however, he did not indicate how he and his companions, right after the buy bust, handled the seized plastic bag and its contents. He did not name the duty desk officer at Camp Vicente Lim to whom he specifically turned over the confiscated bag and sachets at least for recording. What is on record is Exhibit "C," which, as earlier described, is a memorandum[26] PO3 Ramos prepared[27] dated April 5, 2000 from the RSOG-IV Director to the Chief, PNP R-IV Crime Laboratory Service, submitting for qualitative analysis the white crystalline substance confiscated by the buy-bust group. Needless to stress, the unnamed person who delivered the suspected shabu and the recipient of it at the laboratory were no-show in court to testify on the circumstances under which they handled the specimen or whether other persons had access to the specimen before actual testing. And C/I Geronimo, the analyzing forensic chemist, was not also presented. Then, too, no one testified on how the specimen was cared after following the chemical analysis. As the Court observed aptly in *People v. Ong*, "[T]hese questions should be answered satisfactorily to determine whether the integrity of the evidence was compromised in any way. Otherwise, the prosecution cannot maintain that it was able to prove the guilt of appellants beyond reasonable doubt." [28]

It cannot be overemphasized that Inspector Tria was really not part of the custodial chain. And she did not as she could not, even if she wanted to, testify on whether or not the specimen turned over for analysis and eventually offered in court as exhibit was the same substance received from Arguson.

Given the foregoing perspective, it is fairly evident that the police operatives trifled with the procedures in the custody of seized prohibited drugs in a buy-bust operation, as embodied in Sec. 21(1), Art. II of RA 9165, i.e., the apprehending officer/team having initial custody and control of the drug shall:

immediately after seizure and confiscation, physically inventory and photograph the [drug] 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.[29]

In this case, no physical inventory was made and no photograph taken nor markings made on the seized articles at the crime scene. PO3 Ramos admitted as much, thus:

Q.

Now, you were able to arrest all the accused here, after their arrest, what did you do? A. After informing their rights and the reason why we arrest them we brought them immediately to our office in Canlubang.

x x x x

Q.

Now, what about this Shabu, who was in possession of this Shabu x x x when you left the place and proceeded to Canlubang? A. PO2 Balosbalos, sir.

x x x x

Q.

Now, when you reach your office, what did you do there? A. I made the booking sheet and I requested for their medical/physical examination x x x.[30]

Just as clear is the fact that the exacting chain of custody rule was not observed. Withal, there is no reasonable assurance that no tampering or substitution occurred between the time the police seized the black bag in P. Ocampo St. in Manila until its contents were tested in the laboratory of the PNP R-IV headquarters in Canlubang, Laguna. In net effect, a heavy cloud of doubt hangs over the integrity and necessarily the evidentiary value of the seized items. The prosecution cannot, thus, rightfully assert that the six sachets seized from Arguson were the very same objects tested by C/I Geronimo and offered in court in proving the corpus delicti.

Adding a negative dimension to the prosecution's case is the non-presentation of C/I Geronimo and the presentation in her stead of Inspector Tria to testify on the chemical report C/I Geronimo prepared. While Inspector Tria can plausibly testify on the fact that C/I Geronimo prepared the chemical report in the regular course of her duties, she, Inspector Tria, was incompetent to state that the specimen her former colleague analyzed was in fact shabu and was the same specimen delivered to the laboratory for chemical analysis.

To be sure, the Court, notably in *People v. Bandang*, has held that the non-presentation of the forensic chemist in illegal drug cases is an insufficient cause for acquittal. In it, the accused persons were convicted of illegal sale of shabu even if the forensic chemist who prepared the corresponding laboratory report was not presented. Thus, we wrote:

x x x In *People vs. Uy*, we ruled that a forensic chemist is a public officer and as such, his report carries the presumption of regularity in the performance of his function and duties. Corollarily, under Section 44 of Rule 130, x x x entries in official records made in the performance of official duty are prima facie evidence of the facts therein stated. Omero's reports that the seven sachets of white crystalline substance were "positive for methylamphetamine hydrochloride" or shabu are, therefore, conclusive in the absence of evidence proving the contrary, as in this case.

Second, it must be stressed that Atty. Enriquez raises his objection to the Initial Laboratory Report and Chemistry Report No. D-1585-00 only now. He should have objected to their admissibility at the time they were being offered. Otherwise, the objection shall be considered waived and such evidence will form part of the records of the case as competent and admissible evidence. The familiar rule in this jurisdiction is that the admissibility of certain documents x x x cannot be raised for the first time on appeal.[31] (Emphasis added.)

It should be pointed out, however, that the *Bandang* ruling was cast against a different backdrop where: (1) the seized crystalline substance was the same item examined and tested positive for shabu and presented in court, implying that the identity and integrity of prohibited drug was safeguarded throughout, a circumstance not obtaining in this case; (2) there was a compelling reason for not presenting the examining forensic chemist, i.e., the parties stipulated that the confiscated seven plastic bags have been identified and examined and that the chemist stated in his report that the substance is positive for shabu. In this case, C/I Geronimo's resignation from the service is not, standing alone, a justifying factor for the prosecution to dispense with her testimony; and (3) accused *Bandang*, et al. did not raise any objection to the chemical report during trial, unlike here where accused-appellant objected to Inspector Tria's competency to testify on the Geronimo chemical report.

At any rate, Inspector Tria's testimony on, and the presentation of, the chemistry report in question only established, at best, the existence, due execution, and authenticity of the results of the chemistry analysis.[32] It does not prove compliance with the requisite chain of custody over the confiscated substance from the time of seizure of the evidence. In this regard, the Court in effect stated in *Malillin* that unless the state can show by records or testimony that the integrity of the evidence has not been compromised by accounting for the continuous whereabouts of the object evidence at least between the time it came into the possession of the police officers until it was tested in the laboratory,[33] then the prosecution cannot maintain that it was able to prove the guilt of the accused beyond reasonable doubt. So it was that in *People v. Kimura* the Court said that in establishing the *corpus delicti*, proof beyond reasonable doubt demands that "unwavering exactitude"[34] be observed, a demand which may be addressed by hewing to the chain-of-custody rule. Evidently, the prosecution has not proved that the substance seized in front of the McDonald's was the same substance adduced in evidence as an indispensable element of *corpus delicti* of the crime, which failure produces a serious doubt as to accused-appellant's guilt.[35]

Both the trial and appellate courts made much of the presumption of regularity in the performance of official functions both with respect to the acts of PO3 Ramos and other PNP personnel at Camp Vicente Lim. To a point, the reliance on the presumptive regularity is tenable. This presumption is, however, disputable and may be overturned by affirmative evidence of irregularity or failure to perform a duty;[36] any taint of irregularity vitiates the performance and negates the presumption. And as earlier discussed, the buy bust team committed serious lapses in the handling of the prohibited item from the very start of its operation, the error of which the PNP R-IV command later compounded. The Court need not belabor this matter anew.

Lest it be overlooked, the presumption of regularity in the performance of official duty always yields to the presumption of innocence and does not constitute proof beyond reasonable doubt.[37] We held in one case:

The presumption of regularity in the performance of official duty cannot be used as basis for affirming accused-appellant's conviction because, "[f]irst, the presumption is precisely just that--a mere presumption. Once challenged by evidence, as in this case, x x x [it] cannot be regarded as binding truth. Second, the presumption of regularity in the performance of official functions cannot preponderate over the presumption of innocence that prevails if not overthrown by proof beyond reasonable doubt." [38]

For failure then of the prosecution to establish the guilt of accused-appellant beyond reasonable doubt, she must perforce be exonerated from criminal liability. The facts and the law of the case call for this kind of disposition.

But a final consideration. The Court is cognizant of the campaign of the police and other drug enforcement agencies against the growing drug menace in the country. Unfortunately, their best efforts, particularly successful honest-to-goodness buy-bust operations, sometimes still end up in the acquittal of illegal drug manufacturers, distributors, pushers and/or lesser players, even when nabbed in flagrante, simply because drug enforcement operatives tend to compromise the integrity and evidentiary worth of the seized illegal items. This aberration is oftentimes in turn attributable to the unfamiliarity of police operatives of extant rules and procedures governing

the custody, control, and handling of seized drugs. This is, thus, an opportune time to remind all concerned about these rules and procedures and the guiding jurisprudence. And to put things in the proper perspective, non-compliance with the legal prescriptions of the Dangerous Drugs Act, as amended, is, as we made abundantly clear in *People v. Sanchez*, not necessarily fatal to the prosecution of drug-related cases; that police procedures may still have some lapses. These lapses, however, must be recognized, addressed, and explained in terms of their justifiable grounds, and the integrity and evidentiary value of the evidence seized must be shown to have been preserved by the apprehending officer or team.

To be forewarned is to be forearmed.

WHEREFORE, the CA Decision dated July 19, 2007 in CA-G.R. CR-H.C. No. 00476, affirming that of the RTC, Branch 53 in Manila which found her guilty of violating Sec. 15, Art. III of RA 6425 and imposed upon her the penalty of reclusion perpetua and a fine of PhP 500,000, is hereby REVERSED and SET ASIDE. Accused-appellant Monalyn Cervantes y Solar is ACQUITTED on the ground of reasonable doubt and is accordingly immediately RELEASED from custody unless she is being lawfully held for some lawful cause.

The Director of the Bureau of Corrections is directed to implement this Decision and to report to this Court the action taken hereon within five (5) days from receipt of this Decision.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Brion JJ., concur.

[1] Rollo, pp. 6-7.

[2] Id. at 5.

[3] The McDonald's branch in P. Ocampo St. was later determined to be in Manila.

[4] Records, pp. 185-187.

[5] Rollo, pp. 7-8.

[6] TSN, January 20, 2003, pp. 10-11.

[7] Rollo, p. 8.

[8] CA rollo, p. 30. Penned by Judge Reynaldo A. Alhambra.

[9] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[10] CA rollo, pp. 81-82.

[11] Rollo, pp. 4-10. Penned by Associate Justice Estela M. Perlas-Bernabe and concurred in by Associate Justices Vicente Q. Roxas and Lucas P. Bersamin.

[12] (a) identity of the buyer and the seller, the object and the consideration; and (b) the delivery of the thing sold and payment therefor.

[13] TSN, October 23, 2001, pp. 12-16.

[14] CA rollo, p. 28.

[15] Id. at 28-29.

[16] *People v. Navarro*, G.R. No. 173790, October 11, 2007, 535 SCRA 644, 653.

[17] A Latin word which signifies "body."

[18] Literally body of the crime; in the legal sense, *corpus delicti* as referring to the fact of the commission of the crime charged or to the substance of the crime; it does not refer to the actual physical evidence, such as ransom money in the crime of kidnapping for ransom, the cadaver of the person murdered, or the confiscated cases of blue seal cigarettes in the crime of smuggling. See *Rimorin, Sr. v. People*, G.R. No. 146481, April 30, 2003, 402 SCRA 393, 400.

[19] *People v. Sanchez*, G.R. No. 175832, October 10, 2008; citing *Valdez v. People*, G.R. No. 170180, November 23, 2007, 538 SCRA 611.

[20] *Valdez*, supra note 19, at 628-629; citing *People v. Ong*, G.R. No. 137348, June 21, 2004, 432 SCRA 470.

[21] G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632; citing American jurisprudence.

[22] *Valdez*, supra; *Ong*, supra note 20.

[23] In accordance with Sec. 21, Art. II of the Implementing Rules and Regulations (IRR) of RA 9165 or the Comprehensive Dangerous Drugs Act of 2002 in relation to Sec. 81(b), Art. IX of RA 9165.

[24] *Malillin*, supra note 21.

[25] *Id.* at 633-634.

[26] *Records*, p. 33.

[27] *TSN*, October 23, 2001, p. 20.

[28] *Supra* note 20, at 490.

[29] The IRR of RA 9165 provides further, "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."

[30] *TSN*, October 23, 2001, pp. 18-19.

[31] G.R. No. 151314, June 3, 2004, 430 SCRA 570, 586-587.

[32] *Sanchez*, supra note 19.

[33] *Supra* note 21, at 634.

[34] G.R. No. 130805, April 27, 2004, 428 SCRA 51, 70.

[35] *Id.*

[36] *Sevilla v. Cardenas*, G.R. No. 167684, July 31, 2006, 497 SCRA 428, 443; citing *Mabsucang v. Judge Balgos*, 446 Phil. 217, 224 (2003).

[37] *People v. Cañete*, G.R. No. 138400, July 11, 2002, 384 SCRA 411, 424.

[38] *People v. Tan*, G.R. No. 129376, May 29, 2002, 382 SCRA 419, 444.

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