

PEOPLE OF THE PHILIPPINES, VS. PLAINTIFF-APPELLEE, JOSELITO BERAN Y ZAPANTA @ “JOSE”, ACCUSED-APPELLANT.

G.R. No. 203028. January 15, 2014

Ponente: REYES, J.

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REYES, J.:

On appeal is the Decision[1] dated March 9, 2012 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04466 affirming the conviction of accused-appellant Joselito Beran y Zapanta (Beran) rendered by the Regional Trial Court (RTC) of Manila, Branch 13, in a Decision[2] dated April 19, 2010 in Criminal Case No. 03-218039, for violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, under an Information which reads, as follows:

The undersigned accuses JOSELITO BERAN y ZAPANTA @ JOSE of Viol. of Sec. 5, Art. II of Rep. Act No. 9165, committed as follows:

That on or about August 26, 2003, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, trade, deliver or give away any dangerous drug, did then and there willfully, unlawfully and knowingly sell or offer for sale to a poseur buyer

one (1) pc. plastic sachet containing ZERO POINT ZERO THREE ZERO (0.030) gram of white crystalline substance known as SHABU containing meth[yl]amphetamine hydrochloride, which is a dangerous drug.

Contrary to law.[3]

At his arraignment on November 5, 2003, Beran pleaded not guilty to the offense charged, and trial followed.

The Facts

According to the prosecution, between three and four o'clock in the afternoon of August 26, 2003,[4] a confidential informant (CI) went to the District Anti-Illegal Drug (DAID) Office of the Western Police District (WPD) at the United Nations Avenue, Manila, and approached Police Officer 3 (PO3) Rodolfo Enderina (Enderina) to report that a certain Joselito Beran, alias “Jose,” a pedicab driver, was selling prohibited drugs, particularly “shabu,” in the vicinity of San Antonio Street in Tondo, Manila. PO3 Enderina relayed the information to Police Colonel Marcelino Pedroso, Chief of DAID-WPD, who then ordered him to form a buy-bust team to apprehend the suspect. At around 5:00 p.m., the buy-bust team, composed of PO3 Enderina, PO3 Hipolito Francia, PO3 Benito Decorion (Decorion), PO2 Ernie Reyes, PO2 Alexander Delos Santos (Delos Santos) and PO3 Knowme Sia (Sia), who was to act as the poseur-buyer, arrived in Tondo on board an owner-type jeep and two scooters. In the jeep were PO3 Enderina, PO2 Delos Santos, and the CI, while the rest of the team rode in the scooters. They parked near the Gat Andres Hospital and proceeded on foot towards San Antonio Street. As arranged, PO3 Sia and the CI walked ahead of the others. PO3 Sia and the CI reached the target area first, and there the CI saw Beran standing some 10 meters away near a “poso” or deep-well.

After recognizing and pointing Beran to PO3 Sia, the CI approached him and the two men conversed briefly.

Then the CI signaled to PO3 Sia to join them, and he introduced PO3 Sia to Beran, who then asked the CI how much PO3 Sia was buying. The CI replied, “piso lang,” or P100, and Beran took out something from his pocket, a small, heat-sealed plastic sachet, which he then handed to PO3 Sia. PO3 Sia took the sachet and pretended to examine it discretely, after which he indicated to Beran that he was satisfied with its content. He then took out a marked P100 bill which he handed to Beran; all this time the back-up members of the buy-bust team were watching from strategic locations around the vicinity.

Thereupon, PO3 Sia executed the pre-arranged signal of touching his hair to signify to the back-up cops that the buy-bust sale of shabu had been consummated, even as he then placed Beran under arrest. The back-up operatives quickly converged upon Beran, with PO2 Delos Santos arriving first, to whom PO3 Sia then handed over the custody of Beran, while he kept the plastic sachet. The buy-bust team brought Beran to the DAID-WPD office, where PO3 Sia marked the confiscated plastic sachet with the initials of Beran, “JB.” He also recorded the incident in the police blotter, and accomplished the Booking Sheet and Arrest Report (Exhibit F and F-1), and the Request for Laboratory Examination (Exhibit G and G-1). He later brought the seized plastic sachet to the WPD Crime Laboratory for examination, where after testing it was found to contain the prohibited drug methylamphetamine hydrochloride or shabu.[5]

In his defense, Beran vehemently denied the above incident. Testifying alone in his defense, he asserted that on August 26, 2003 at around 2:00 p.m., while he was resting alone upstairs in his house, five WPD policemen arrived and ordered him to come with them. He resisted and asked why they were arresting him, but without apprising him of his constitutional rights they handcuffed and forcibly boarded him in an owner-type jeep and brought him to the WPD Headquarters. There, two of his arrestors, PO3 Francia and PO3 Sia, demanded from him the amount of P20,000.00 in exchange for his release without any charge. But he could not produce the amount they asked, and they trumped up a charge against him of illegal sale of shabu.[6]

The trial of Beran took all of seven years to wind up, mainly on account of many postponements allegedly due to supervening illnesses or reassignments of the subpoenaed arresting officers. The prosecution was able to present two witnesses, PO3 Francia and PO3 Sia, but only PO3 Sia gave a witness account of the drug buy-bust itself. PO3 Francia admitted that he served as a mere look-out to prevent any intruder from interfering in the buy-bust operation, and that he did not witness the buy-bust transaction itself. As for PO3 Decorion, also a member of the buy-bust team, the RTC per its Order[7] dated July 29, 2009 agreed to dispense with his testimony after the parties stipulated that as the designated driver of the buy-bust team, he did not see the actual exchange of drug and money between Beran and PO3 Sia, nor did he witness the actual arrest of Beran by PO3 Sia.

Ruling of the RTC

On April 19, 2010, the RTC of Manila, Branch 13, rendered its judgment,[8] the dispositive portion of which reads:

THEREFORE, premises considered and the prosecution having established to a moral certainty the guilt of the accused JOSELITO BERAN y ZAPANTA @ JOSE of the crime charged, this Court in the absence of any aggravating circumstance hereby sentences the Accused to LIFE IMPRISONMENT and to pay the fine of five hundred thousand pesos ([P]500,000.00), without any subsidiary imprisonment in case of insolvency.

In the service of his sentence, the actual confinement under detention during the pendency of this case shall be deducted from the said prison term in accordance with Article 29 of the Revised Penal Code.

The evidence presented is ordered transferred to the Philippine Drug Enforcement Agency (PDEA) for destruction.

SO ORDERED.[9]

Beran went up to the CA to interpose the following alleged errors in the RTC decision, to wit:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING [BERAN] DESPITE THE ILLEGALITY OF HIS ARREST AND THE INADMISSIBILITY OF THE ALLEGED CONFISCATED PROHIBITED DRUG.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING [BERAN] GUILTY BEYOND REASONABLE DOUBT DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE IDENTITY OF THE PROHIBITED DRUG.

III.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING [BERAN] DESPITE THE POLICE OFFICERS' NON-COMPLIANCE WITH SECTION 21 OF REPUBLIC ACT NO. 9165.[10]

Ruling of the CA

In affirming in toto the RTC, the CA ruled that Beran was caught in flagrante delicto as a result of a valid and legitimate buy-bust operation, an entrapment to apprehend law breakers while in the act of executing their criminal plan.[11] Relying solely on the testimony of PO3 Sia, it found that Beran sold the prohibited drug shabu to an undercover buyer, PO3 Sia; that Beran was arrested at the moment of the consummation of the sale transaction and immediately brought to the DAID-WPD along with the sachet of illegal drug confiscated from him; that when the substance was subjected to chemical analysis by the WPD Drug Laboratory, the content thereof was shown to be methylamphetamine hydrochloride or shabu.

The CA further held that the arrest of Beran by PO3 Sia without warrant was valid under Section 5(b) of Rule 113 of the Revised Rules on Criminal Procedure, which provides that "a police officer or a private person may, without a warrant arrest a person when an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it." It also cited Section 5(a) of Rule 113, wherein it provides that "a police officer can arrest a person without warrant when in his presence the person to be arrested has committed, is actually committing, or is attempting to commit an offense."

Quoted below at length are pertinent portions of the testimony of PO3 Sia which according to the CA have proved beyond reasonable doubt the material facts attending the buy-bust and establishing the guilt of Beran:

=====
DIRECT EXAMINATION
CONDUCTED BY
ACP LIBERTAD RASA ON WITNESS
PO3 KNOWME SIA
=====

x x x x

Q:

How did you know that there was that informant who arrived at your office giving information about drugs activities of a certain Beran?

A:

PO3 Rodolfo Enderina formed a team in DAID office, ma'am.

Q:

Did you know why Enderina formed a group at DAID?

A:

He relayed to us that we have [an] Anti-Illegal [D]rugs [O]peration, ma'am.

Q:

That you will have [an] Anti-Illegal Drugs Operation, where and against whom?

A:

Against one Joselito Beran alias Jose, ma'am.

Q:

Where?

A:

In the area of San Antonio Street, Tondo, Manila.

Q:

Was there anytime that you saw them in front at your office when he relayed the information to Enderina?

A:

Yes, ma'am.

Q:

What time of the day or the night was that?

A:

Between 3-4 pm of August 26, 2003, ma'am.

Q:

And what did your team leader Rodolfo Enderina do as soon as he receive[d] that information?

A:

He formed his men and then he directed all of us and place[d] the confidential information for interrogation, ma'am.

Q:

As a ma[t]ter of standard operating procedure, what does [an] operative of SAID or DAID do before launching a buy-bust operation?

A:

First, there must be an information to be received, [then] there was a plan [of] operation and then the

documents are required to [be] accomplished prior to [the] conduct [of] a buy-bust operation, ma'am.

Q:

What documents, if any, were you required to prepare prior to your operation?

A:

Our dispatch record.

Q:

Do you have a copy of this dispatch record?

A:

Yes, ma'am.

Q:

Can you show it to the Court?

A:

It is [with] the custodial of DAID, ma'am.

x x x x

ACP Rasa:

Q:

Aside from the [dispatch] record, what other documents did you prepare?

A:

The buy-bust money, ma'am.

Q:

Do you have the buy-bust money with you?

A:

I will bring it on the next hearing, ma'am.

Q:

How much buy-bust money did you prepare?

A:

[P]100.00, ma'am.

Q:

Who supplied that [P]100.00 buy-bust money?

A:

Our team leader, ma'am.

Q:

Who is your team leader?

A:

PO3 Rodolfo Enderina, ma'am.

Q:

Aside from the [dispatch] record, the buy-bust money, what other preparations did you do before launching on the operation of buy-bust against one Joselito Beran alias Jose?

A:

There was a preparation of Pre-Operation Report and Coordination Sheet, however, we cannot fax to the PDEA because the PDEA [fax] at that time was not fully operational, ma'am.

Q:

What other documents aside from those already mentioned did you prepare?

A:

That's all, ma'am.

Q:

And what were the other instructions given to you by the team leader, Rodolfo Enderina?

A:

During our briefing, I was then chosen as the designated poseur-buyer, ma'am.

Q:

What else?

A:

The marked money was marked by me and then during the briefing, it was agreed that the pre-arranged signal was to touch my hair as indication that the deed was done, ma'am.

x x x x

Q:

What time did you proceed to San Antonio?

A:

Around 5:00 of August 26, 2003, ma'am.

Q:

How many vehicles [did you use]?

A:

We utilized one (1) owner type jeep and [the] other[s] were on their respective motorcycle or scooter, ma'am.

Q:

And the other[s] were [a]board on scooter[s]?

A:

Yes, ma'am.

Q:

Who were inside the owner type jeep?

A:

PO3 Rodolfo End[e]rina, the confidential informant and PO1 (sic) Delos Santos, ma'am.

Q:

And who took their scooters?

A:

PO3 Benito Decorion and PO2 Ernie Reyes, ma'am.

Q:

One scooter?

A:

Two (2) scooter[s] ma'am.

Q:

Where did you park your vehicle?

A:

We parked in the area of Gat Andres Hospital, ma'am.

x x x x

Q:

As soon as you [had] parked your vehicles, what else happened?

A:

When we parked our vehicle, PO3 Enderina grouped us and told us that [at] the area where we [were] going, the vehicles [could] not enter San Antonio Street and after that, the confidential informant was the first who proceeded [to] the target place, ma'am.

Q:

You already said that you already parked your vehicles. So how did you arrive at San Antonio Street?

A:

[On] foot, ma'am.

Q:

How did you scout or identify your target person?

A:

Upon arrival in the area of San Antonio, the confidential informant was the first who arrived and then in a few minutes later, the confidential informant pointed [to] one (1) male person in the area of San Antonio, ma'am.

Q:

You were saying that, the confidential informant went ahead of you?

A:

No, ma'am. We were together, ma'am.

Q:

Where did you first notice the presence of the accused?

A:

Near the alley, ma'am, in the middle of San Antonio where there is a "poso".

Q:

When pointed to you, how far were you from the accused or your target?

A:

Approximately 8-10 meters, ma'am.

Q:

What was the accused doing when he was pointed at by the confidential informant to you?

A:

He was spotted standing, ma'am.

Q:

Standing only?

A:

Yes, ma'am.

Q:

What happened after you saw him standing?

A:

The CI went ahead of me to approach the suspect, ma'am.

Q:

When you said the CI was ahead of you, about how far away were you following him?

A:

3-4 meters, ma'am.

Q:

What else happened?

A:

After that, ma'am, the CI and the subject were conversing.

Q:

Did you hear what the conversation was all about?

A:

No, ma'am.

Q:

After that conversation, what happened next?

A:

The CI signaled to me to come close to them, ma'am.

Q:

As soon as you were already with the group or with the CI and the target person, what else did you do?

A:

I approached them, ma'am, then the CI introduced me as the buyer of the prospected illegal drugs.

Q:

What was the reply or the action of Beran?

A:

He told the CI "magkano ba", ma'am.

Q:

And what did the CI say?

A:

The CI told him "piso lang". "Piso" means One Hundred Pesos, ma'am.

Q:

After knowing that you were only interested to buy "piso", what happened after?

A:

After that Beran took out something from his pocket, ma'am.

Q:

What was that?

A:

Beran showed me and the CI [a] small plastic sachet, ma'am.

Q:

After showing to you, what else did Beran do with the plastic?

A:

The subject handed to me one (1) plastic sachet, ma'am.

Q:

What did you do after it was handed to you?

A:

I discretely examined the contents of the plastic sachet and after that, the subject person demanded for the payment of said stuff, ma'am.

Q:

What did you do?

A:

I gave the marked buy-bust money, ma'am.

Q:

What happened after that?

A:

After that, the pre-arranged signal was executed, ma'am.

Q:

What was the pre-arranged signal agreed upon?

A:

Touching of the hair, ma'am.

Q:

Who was able to recover that buy-bust money?

A:

Me, ma'am.

Q:

What happened next?

A:

The other back-up operatives arrived and PO2 Delos Santos was the first to respond x x x and I gave the suspect to him for custody, ma'am.

Q:

What did you do with that plastic that you bought from the accused Beran?

A:

I immediately placed him (sic) in my custody, ma'am, and later on it was marked and forwarded to WPD Drug Laboratory Office for laboratory examination, ma'am.

Q:

Who brought that plastic sachet for the laboratory examination?

A:

Me, ma'am.

Q:

Who placed the marking on that plastic sachet?

A:

Me, ma'am.

Q:

What marking did you place?

A:

JB, ma'am.

Q:

Where did you place the marking?

A:

At the office, ma'am.

Q:

If shown that plastic sachet, will you be able to identify it?

A:

Yes, ma'am.

Q:

Why?

A:

I recognized the markings, ma'am.

Q:

What did you use to mark it?

A:

I think it was a pentel pen, ma'am.

Q:

Aside from this drugs (sic) which you said they requested and [you] personally brought for examination at the WPD Crime Laboratory, what other things did you do as soon as you arrived at the office?

A:

It was recorded it (sic) in our police blotter, ma'am, and the pertinent documents were prepared.

Q:

Do you have a copy of the police blotter?

A:

Yes, ma'am, but it's in the office.

Q:

The buy-bust money and the dispatched report are also at your office. Can you bring all of those?

A:

Yes, ma'am.

Q:

What was the result of the laboratory examination which you said you personally brought to the laboratory?

A:

It turned out to be positive for Meth[yl]amphetamine Hydrochloride, ma'am.

Q:

What happened next after the examination?

A:

After preparing the documents, we presented the case before the inquest fiscal, ma'am.

Q:

Did you subject the accused for drug test?

A:

I cannot remember, ma'am.

Q:

You did not prepare a request for drug test?

A:

I prepared the request for drug test, ma'am.

Q:

And what was the result of the drug test?

A:

I do not know the result, ma'am.

Q:

Can you bring the result of [the] drug test?

A:

“Sa Crime Lab na lang po”, ma'am.

x x x x.[12]

=====

CONTINUATION OF DIRECT EXAMINATION CONDUCTED BY:
FISCAL PURIFICACION A. BARING-TUVERA

=====

FISCAL TUVERA:

x x x x

Q:

Mr. Witness, during your testimony on August 8, 2006, you were asked by former Prosecutor Rasa if you will be able to identify the specimen which you said you bought from accused Joselito Beran, do you remember having said that?

A:

Yes, ma'am.

Q:

Will you still be able to identify the specimen if it will be shown to you again?

A:

Yes, ma'am. I was the one who. . . (interrupted)

Q:

Will you be able to identify it?

A:

Yes, ma'am.

Q:

And how will you be able to identify it, Mr. Witness?

A:

I was the one who placed the marking on the alleged shabu.

Q:

And what were the markings [that] you place[d] on the plastic sachet?

A:

It was marked JB ma'am.

Q:

J?

A:

JB.

Q:

And will you kindly tell us who placed the markings JB on the plastic sachet?

A:

I was the one who marked the specimen.

Q:

And where did you place the markings Mr. Witness?

A:

On the plastic sachet.

Q:

At what time did you place the markings on the plastic sachet?

A:

After the arrest of the suspect when he was brought to our office for investigation.

Q:

In other words, when did you place the markings?

A:

After 5 pm of August 23, 2003.

Q:

And at what place Mr. Witness?

A:

At the office.

Q:

I am showing you Mr. Witness a plastic sachet, by the way, how many plastic sachets did you [buy] from the accused?

A:

One (1) plastic sachet.

Q:

One plastic sachet only, Mr. Witness, I am showing you a plastic sachet with markings JB, will you kindly tell

us if that is the same plastic sachet that you bought from the accused and subsequently marked at the police station?

A:

This is the plastic sachet subject of the sale, I marked JB on the said plastic sachet.

FISCAL TUVERA:

We manifest Your Honor that [t]he plastic sachet was already marked as Exhibit B-1 for the prosecution.

Q:

What did you use Mr. Witness in buying this shabu?

A:

We utilized [P]100 bill.

Q:

Do you have the genuine [P]100 bill with you now Mr. Witness?

(pause)

Q:

Nasa iyo ba yung [P]100 bill?

A:

I have it in my custody.

Q:

You have it in your custody?

A:

But I did not bring it today.

Q:

Why did you not bring it today Mr. Witness?

A:

I only knew ma'am that I have my hearing on Joselito Beran but I forgot to bring it, next scheduled hearing nalang po.

Q:

Mr. Witness, before you used that buy-bust money to buy shabu from the accused Mr. Witness, did you place markings on the [P]100 bill?

A:

Yes ma'am

Q:

And what were these markings did you place on the [P]100 bill?

A:

I marked DAID at the left po[r]tion of the buy-bust money.

Q:

And what else did you do aside from placing markings on the [P]100 bill?

A:

The said money was then xeroxed for five (5) pieces and then the original was kept in our custody.

x x x x.[13]

(Continuation of Direct-Examination of Witness PO3 Knowme Sia by ACP Baring-Tuvera)

x x x x

ACP BARING-TUVERA

Q:

Mr. Witness, you are here today for the continuation of your direct-examination. May we know if you already brought with you the buy-bust money in connection with this case?

THE WITNESS

A:

Yes, ma'am.

ACP BARING-TUVERA

Q:

Will you kindly bring it out and show it to this Honorable Court so that the Court may be able to appreciate it?

THE WITNESS

A:

Here, ma'am.

COURT:

Q:

The money is attached to a blank sheet of paper. Will you write something about it, the case number?

THE WITNESS

A:

Yes, your Honor.

ACP BARING-TUVERA:

Q:

May I just have this identified, your Honor? Mr. Witness, you said that you were the one who placed the

markings on this One Hundred Peso ([P]100.00) bill. Will you kindly tell us on what part of this money did you place the markings?

THE WITNESS

A:

I marked DAID at the left center portion of the buy-bust money.

x x x x

ACP BARING-TUVERA

Q:

Mr. Witness, you said that you were the one – you were the poseur-buyer in this case. If you will be shown the item again, will you be able to identify it again Mr. Witness?

THE WITNESS

A:

Yes, ma'am.

Q:

I am showing to you Mr. Witness – and how will you be able to identify it?

A:

I was the one who marked it.

Q:

And what markings did you place on the plastic sachet?

A:

JB, ma'am.

x x x x

ACP BARING-TUVERA

Q:

And who were present when you marked this plastic sachet at the office?

THE WITNESS

A:

The arresting officers ma'am, my companions in the conduct of the buy-bust operation, ma'am.

THE COURT:

Q:

Who?

THE WITNESS

A:

PO3 Rodolfo Enderina, PO2 Hipolito Francia.

THE COURT:

Q:

In the presence of your fellow officers?

THE WITNESS

A:

Yes, Your Honor.

ACP BARING-TUVERA

Q:

How about the police investigator, was he also present when you place this markings?

THE WITNESS

A:

In that case ma'am, I was also the investigator.

Q:

You were also the investigator. And after you placed the markings on that plastic sachet Mr. Witness, the plastic sachet containing shabu, what else did you do?

A:

We prepared the laboratory examination, ma'am.

Q:

Who prepared the request for laboratory examination?

A:

I prepared it, ma'am.

Q:

Okay. And after you prepared the request for laboratory examination, what else happened?

A:

And then we submitted the said specimen to the crime laboratory for laboratory examination.

Q:

Was the laboratory examination actually conducted on the plastic sachet that you submitted?

A:

Yes, ma'am.

Q:

And what was the result of the laboratory examination that was conducted on the specimen that you submitted?

A:

It yielded positive result for Methyamphetamine hydrochloride, ma'am.

x x x x

ACP BARING-TUVERA

Q:

After you have arrested or after the buy-bust operation Mr. Witness, do you remember having executed any document?

THE WITNESS

A:

I executed the Affidavit of Poseur-Buyer. I also prepared the Referral for Inquest, the Request for Drug Test and the Booking Sheet and Arrest Report.

x x x x.[14]

On cross-examination, PO3 Sia was asked why he omitted to mention in his affidavit his claimed marking of the confiscated sachet of shabu. He could not explain his oversight except to say that he "forgot to include [a mention of the said fact], ma'am." [15]

Our Ruling

According to the CA, the following elements are required to sustain Beran's conviction and these have been shown to be present in the case below, namely: the identity of the buyer and the seller; the object of the sale and the consideration; and the delivery of the thing sold and payment therefor.[16] It held that the prosecution was able to establish the following facts: the identities of the poseur-buyer, PO3 Sia, and the seller, Beran; the object of the sale, shabu, contained in a heat-sealed plastic sachet handed by Beran to PO3 Sia; and, the consideration which PO3 Sia paid for the staged purchase, a marked P100.00 bill confiscated in the possession of Beran. Thus, according to the CA, a complete narrative was built of an illegal sale of shabu leading to the arrest of Beran by PO3 Sia.

We disagree.

The crucial issue in this case is whether, to establish the corpus delicti, the integrity and evidentiary value of the seized drug have been preserved in an unbroken chain of custody. We find no unbroken chain of custody, and we rule that the prosecution failed to establish the very corpus delicti of the crime charged. Beran must be set free.

Evidentiary gaps in the chain of custody of the confiscated plastic sachet cast reasonable doubt on its integrity.[17]

It is well-settled that in the prosecution of cases involving the illegal sale or illegal possession of dangerous drugs, the evidence of the corpus delicti, which is the dangerous drug itself, must be independently established beyond reasonable doubt.[18] In *People v. Pagaduan*, [19] we ruled that proof beyond reasonable doubt in criminal prosecution for the sale of illegal drugs demands that unwavering exactitude be observed in establishing the corpus delicti, the body of the crime whose core is the confiscated illicit drug.[20] The case of *People v. Tan*, [21]

cited in *People of the Philippines v. Datu Not Abdul*,^[22] elucidates and reminds us why:

“By the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great.” Thus, the courts have been exhorted to be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses. Needless to state, the lower court should have exercised the utmost diligence and prudence in deliberating upon accused-appellants’ guilt. It should have given more serious consideration to the pros and cons of the evidence offered by both the defense and the State and many loose ends should have been settled by the trial court in determining the merits of the present case.

Thus, every fact necessary to constitute the crime must be established, and the chain of custody requirement under R.A. No. 9165 performs this function in buy-bust operations as it ensures that any doubts concerning the identity of the evidence are removed.^[23] Black’s Law Dictionary describes “chain of custody,” as follows:

“In evidence, the one who offers real evidence, such as the narcotics in a trial of drug case, must account for the custody of the evidence from the moment in which it reaches his custody until the moment in which it is offered in evidence, and such evidence goes to weight not to admissibility of evidence. *Com. V. White*, 353 Mass. 409, 232 N.E.2d 335.”^[24]

Although R.A. No. 9165 does not define the meaning of “chain of custody,” Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002 which implements R.A. No. 9165 nonetheless explains the said term, as follows:

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

The purpose of the requirement of proof of the chain of custody is to ensure that the integrity and evidentiary value of the seized drug are preserved, as thus dispel unnecessary doubts as to the identity of the evidence. To be admissible, the prosecution must establish by records or testimony the continuous whereabouts of the exhibit, from the time it came into the possession of the police officers, until it was tested in the laboratory to determine its composition, and all the way to the time it was offered in evidence.^[25]

A review of the facts of this case will readily make evident that the appellate decision failed to take note of vital gaps in the recording by the apprehending officers of authorized movements and custody of the seized shabu, as we shall point out, and these gaps compel us to rule that reasonable doubt exists as to the identity of the very corpus of the offense herein charged, the sachet of shabu recovered from Beran. In *People v. Alcuizar*,^[26] we reiterated the rule that under R.A. No. 9165 the dangerous drug itself constitutes the very corpus delicti, and that to sustain a conviction the identity and integrity of the drug must definitely be shown to have been preserved:

The dangerous drug itself, the shabu in this case, constitutes the very corpus delicti of the offense and in sustaining a conviction under Republic Act No. 9165, 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 possession under

Republic Act No. 9165 fails.[27] (Citation omitted)

Article II, Section 21(a) of the Implementing Rules and Regulations (IRR) of R.A. No. 9165 provides that to properly preserve the integrity and evidentiary value of the illegal drugs seized pursuant to a buy-bust operation, or under a search warrant, the following procedures shall be observed by the apprehending officers, to wit:

x x x x

(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;

x x x x.[28]

In *People v. Dela Rosa*[29] we ruled that the prosecution must establish by records or testimony the continuous whereabouts of the exhibit, from the time it came into the possession of the police officers until it was tested in the laboratory to determine its composition, and all the way to the time it is offered in evidence.[30] In the instant case, from the testimony of PO3 Sia it is clear that the apprehending operatives did not, immediately after seizure and confiscation of the illegal item, physically inventory and photograph the same in the presence of the accused, his representative or counsel, a representative from the media and the Department of Justice, and an elected public official, notwithstanding that they were supposed to have been conducting a planned sting operation. Indeed, it is not gratuitous to state that they took no efforts whatsoever to observe even a modicum of the above procedures. Worse, the prosecution did not bother to explain why they failed to observe them, although they knew these procedures were intended to preserve the integrity and evidentiary value of the item seized.

Moreover, none of the other witnesses of the prosecution could corroborate the culpatory narrative of PO3 Sia at any of its material points to create the successive links in the custody of the seized drug. Of the six-man buy-bust team, only PO3 Sia and PO3 Francia testified in court, and PO3 Francia himself twice stated that he did not witness the actual buy-bust sale as it was taking place:

(On Cross-examination [of PO3 Francia] by Atty. Anne Geraldine Agar)

x x x x

Q:

And what was your participation in this case, Mr. Witness?

A;

I acted as “alalay” or back-up, ma’am.

Q:

Did you act as “alalay” on that day?

A;

Yes, ma’am.

COURT:

Did you see what happened while you were acting as “alalay” or back-up?

WITNESS:

None, your Honor. “Malayo po kasi ako.”

COURT:

“Wala pala, eh...”

ATTY. AGAR:

Nothing further, your Honor.

FISCAL:

Redirect, Your Honor.

COURT:

Proceed Fiscal.

Q:

PO3 Francia, you were one of those appointed to form a team?

A:

Yes, ma’am.

Q:

And you said, you were only as “alalay”?

A:

Yes, back-up, ma’am.

Q:

What does an “alalay” or back-up do?

A:

We are there to prevent any intruder that may prevent our operation, ma’am.

Q:

How far were you positioned from the poseur-buyer?

A:

More than 5-7 meters, ma'am.

Q:

Was there any incident or intruder that stopped you from arresting the accused?

A:

None, ma'am.

Q:

From where you were, were you able to see the pre-arranged signal by the poseur-buyer?

x x x x

A:

No, I did not see, ma'am.

Q:

As a back-up, when did you come to see that the deal was consummated?

A:

When my companions moved to Knowme Sia to assist him, ma'am.

Q:

And what was you[r] last act at that time?

A:

"Umalalay," ma'am.[31]

Incidentally, neither did PO3 Francia corroborate PO3 Sia's claim that he and PO3 Enderina were present when he marked the subject sachet at the precinct.

In *People v. Morales*,^[32] we acquitted the accused due to the failure of the buy-bust team to photograph and inventory the seized items or to give justifiable grounds for their non-observance of the required procedures. In *People v. Garcia*,^[33] the accused was acquitted because "no physical inventory was ever made, and no photograph of the seized items was taken under the circumstances required by R.A. No. 9165 and its implementing rules."^[34] We issued the same ruling in *Bondad, Jr. v. People*,^[35] where the police without justifiable grounds did not inventory or photograph the seized items. We reiterated the same ruling in *People v. Gutierrez*,^[36] *People v. Denoman*,^[37] *People v. Partoza*,^[38] *People v. Robles*,^[39] and *People v. dela Cruz*.^[40] In all these cases, we stressed the importance of complying with the required mandatory procedures in Section 21 of R.A. No. 9165 concerning the preservation of the chain of custody of confiscated drugs in a buy-bust operation.

Further, in *Mallillin v. People*^[41] we emphasized that the chain of custody rule requires that there be testimony about every link in the chain, from the moment the object seized was picked up to the time it was offered in evidence, in such a way that every person who touched it would describe how and from whom it was received, where it was and what happened to it while in the possession of the witness, the condition in which it was received and the condition in which it was delivered to the next link in the chain.^[42]

The RTC and CA both convicted Beran on the basis alone of the uncorroborated testimony of PO3 Sia, and despite the buy-bust team's unexplained non-observance of the procedures laid down in Article II, Section 21(a)

of the IRR of R.A. No. 9165. As the Court of last resort, we are now called upon to correct this error. Unlike in *People of the Philippines v. Erlinda Mali y Quimno a.k.a. "Linda"*,^[43] where we found that the prosecution adequately established the unbroken links in the chain of custody of the confiscated drug, and the apprehending officers were able to preserve the integrity and evidentiary value of the item seized and justified their non-compliance with the above procedures, in the instant appeal we rule that the chain of custody has not been established at all, and thus the integrity and evidentiary value of the drug seized has not been preserved.

Contrary to the settled rule in a buy-bust operation, the confiscated shabu was not (1) marked in the presence of Beran (2) immediately upon confiscation.

Concerning the marking of evidence seized in a buy-bust operation or under a search warrant, vis-à-vis the physical inventory and photograph, it must be noted that there are distinctions as to time and place under Section 21 of R.A. No. 9165. Thus, whereas in seizures covered by search warrants, the physical inventory and photograph must be conducted in the place of the search warrant, in 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, consistent with the "chain of custody" rule. In *People v. Sanchez*^[44] the Court held that:

"Physical inventory and photograph requirement under Section 21 vis-a-vis "marking" of seized evidence

While the first sentence of Section 21(a) of the Implementing Rules and Regulations of R.A. No. 9165 states that "the apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same," the second sentence makes a distinction between warrantless seizures and seizures by virtue of a warrant, thus:

"(a) x x x 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."

Thus, the venues of the physical inventory and photography of the seized items differ and depend on whether the seizure was made by virtue of a search warrant or through a warrantless seizure such as a buy-bust operation.

In seizures covered by search warrants, the physical inventory and photograph must be conducted in the place where the search warrant was served. On the other hand, in 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.[45] (Citations omitted and emphases in the original)

It needs no elaboration that the immediate marking of the item seized in a buy-bust operation in the presence of the accused is indispensable to establish its identity in court. PO3 Sia admitted that he marked the sachet of shabu only at the DAID-WPD precinct, several kilometers from the buy-bust scene, as well as impliedly admitted that Beran was not then present. Indeed, none of the buy-bust team attested that they saw him take custody of the confiscated shabu, and later mark the sachet at the DAID-WPD office.

Also, the operatives rode in separate vehicles on the trip back to the WPD, and PO3 Sia took a scooter with another teammate, who could then have attested as to his exclusive custody of the subject drug, but that person was not presented to affirm this fact. So even granting that PO3 Sia did mark the same sachet at the precinct, breaks in the chain of custody had already taken place, first, when he confiscated it from Beran without anyone observing him do so and without marking the subject sachet at the place of apprehension, and then as he was transporting it to the precinct, thus casting serious doubt upon the value of the said links to prove the corpus delicti.

It has been held that “[w]hile a perfect chain of custody is almost always impossible to achieve, an unbroken chain becomes indispensable and essential in the prosecution of drug cases owing to its susceptibility to alteration, tampering, contamination and even substitution and exchange.”[46] Moreover, as the investigator of the case, PO3 Sia claimed that he personally took the drug to the laboratory for testing, but there is no showing who the laboratory technician was who received the drug from him. The records also show that he submitted the sachet to the laboratory only on the next day, without explaining how he preserved his exclusive custody thereof overnight. All these leave us with no conclusion but that there is serious doubt that the integrity and evidentiary value of the seized item have not been fatally compromised.

Lapses in the strict compliance with the requirements of Section 21 of R.A. No. 9165 must be explained in terms of their justifiable grounds, and the integrity and evidentiary value of the evidence seized must be shown to have been preserved.

In *People v. Coreche*,^[47] we explained that the above-cited rules are intended to narrow the window of opportunity for tampering with evidence, as expressed in Section 21(1) of R.A. No. 9165. As noted by the Court which is worth stating:

RA 9165 is silent on when and where marking should be done. On the other hand, its implementing rules provide guidelines on the inventory of the seized drugs, thus: “the physical inventory x x x shall be conducted at the place where the search warrant is served; or at the nearest police station or at the office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures” (Section 21(a) of Implementing Rules and Regulations). In *People v. Sanchez* (G.R. No. 175832, 15 October 2008, 569 SCRA 194), we drew a distinction between marking and inventory and held that consistent with the chain of custody rule, the marking of the drugs seized without warrant must be done “immediately upon confiscation” and in the presence of the accused.

The concern with narrowing the window of opportunity for tampering with evidence found legislative expression in Section 21(1) of RA 9165 on the inventory of seized dangerous drugs and paraphernalia by putting in place a three-tiered requirement on the time, witnesses, and proof of inventory by imposing on the apprehending team having initial custody and control of the drugs the duty to “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.” Although RA 9165 is silent on the effect of non-compliance with Section 21(1), its implementing guidelines provide 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.” We have interpreted this provision to mean that the prosecution bears the burden of proving “justifiable cause” (*People v. Sanchez*, *id.*; *People v. Garcia*, G.R. No. 173480, 25 February 2009, 580 SCRA 259).[48]

In *Sanchez*, we recognized that under varied field conditions the strict compliance with the requirements of Section 21 of R.A. No. 9165 may not always be possible, and we ruled that under the implementing guidelines of the said Section “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.”[49] But we added that the prosecution bears the burden of proving “justifiable cause.”

Thus, in *Almorfe*, we stressed that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and value of the seized evidence had nonetheless been preserved.[50] In *People v. de Guzman*,[51] we emphasized that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.[52]

In the present case, the prosecution did not bother to offer an explanation for why an inventory and photograph of the seized evidence was not made either in the place of seizure and arrest or at the police station, as required by the Implementing Rules in case of warrantless arrests, or why the marking of the seized item was not made at the place of seizure in the presence of Beran. Indeed, the very identity of the subject shabu cannot be established with certainty by the testimony alone of PO3 Sia since the rules insist upon independent proof of its identity, such as the immediate marking thereof upon seizure. And as we already noted, PO3 Sia claimed that he personally transported the shabu to the WPD station, yet other than his lone testimony there is no other evidence of his exclusive and uninterrupted custody during the interval from seizure and transportation to turn over at the WPD. Then, the record shows that PO3 Sia submitted the sachet of shabu for laboratory examination only the next day,[53] and therefore presumably he retained custody of the subject sachet overnight. In view of his self-serving admission that he marked the sachet only at the precinct, but without anyone present, along with his lack of mention of the laboratory technician or officer who received the sachet from him, the charge that the subject drug may have been tampered with or substituted is inevitable.

WHEREFORE, the foregoing premises considered, the Decision dated March 9, 2012 of the Court of Appeals in CA-G.R. CR-HC No. 04466 is REVERSED and SET ASIDE. For failure of the prosecution to prove his guilt beyond reasonable doubt, Joselito Beran y Zapanta is hereby ACQUITTED of the charge of violation of Section 5, Article II of Republic Act No. 9165. His immediate RELEASE from detention is hereby ORDERED, unless he is being held for another lawful cause. Let a copy of this Decision be furnished the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation, who is then also directed to report to this Court the action he has taken within five (5) days from his receipt of this Decision.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ. concur

[1] Penned by Associate Justice Leoncia R. Dimagiba, with Associate Justice Hakim S. Abdulwahid and Marlene Gonzales-Sison, concurring; CA rollo, pp. 96-123.

[2] Issued by Acting Presiding Judge Cicero D. Jurado, Jr.; records, pp. 159-163.

[3] Id. at 1.

[4] But a second prosecution witness, PO3 Hipolito Francia, said on cross-examination that the time was more or less 2:00 p.m.; TSN, April 26, 2005, p. 3.

[5] CA rollo, pp. 68-71.

[6] Id. at 39.

[7] Records, p. 137.

[8] Id. at 159-163.

[9] Id. at 163.

[10] CA rollo, p. 35.

[11] Cruz v. People, G.R. No. 164580, February 6, 2009, 578 SCRA 147, 152.

[12] TSN, August 8, 2006, pp. 3-16.

[13] TSN, pp. 3-6, July 15, 2008.

[14] TSN, July 16, 2008, pp. 3-10.

[15] Id. at 13.

[16] People v. Gonzales, 430 Phil. 504, 513 (2002).

[17] People v. Abdul, G.R. No. 186137, June 26, 2013.

[18] People v. Morales, G.R. No. 172873, March 19, 2010, 616 SCRA 223, 235.

[19] G.R. No. 179029, August 9, 2010, 627 SCRA 308.

[20] Id. at 322.

[21] 401 Phil. 259 (2000).

[22] G.R. No. 186137, June 26, 2013.

[23] Supra note 19, at 322.

[24] Id. at 323.

[25] People v. Dela Rosa, G.R. No. 185166, January 28, 2011, 640 SCRA 635, 653.

[26] G.R. No. 189980, April 6, 2011, 647 SCRA 431.

[27] Id. at 437.

[28] The entire Section reads:

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

(a) 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;

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

(c) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: Provided, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, that a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

(d) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter, proceed with the destruction or burning of 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 DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: Provided, That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: Provider, further, that a representative sample, duly weighed and recorded is retained;

(e) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to the court having jurisdiction over the case. In cases of seizures where no person is apprehended and no criminal case is filed, the PDEA may order the immediate destruction or burning of seized dangerous drugs and controlled precursors and essential chemicals under guidelines set by the Board. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;

(f) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;

(g) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case

and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same; and

(h) Transitory Provision:

h.1) Within twenty-four (24) hours from the effectivity of this Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies shall, with leave of court, be burned or destroyed, in the presence of representatives of the Court, DOJ, Department of Health (DOH) and the accused and/or his/her counsel; and

h.2) Pending the organization of the PDEA, the custody, disposition, and burning or destruction of seized/surrendered dangerous drugs provided under this Section shall be implemented by the DOH.”

[29] G.R. No. 185166, January 26, 2011, 640 SCRA 635.

[30] *Id.* at 653.

[31] TSN, April 26, 2005, pp. 4-6.

[32] *Supra* note 18.

[33] G.R. No. 173480, February 25, 2009, 580 SCRA 259.

[34] *Id.* at 269.

[35] 594 Phil. 158 (2008).

[36] G.R. No. 179213, September 3, 2009, 598 SCRA 92.

[37] G.R. No. 171732, August 14, 2009, 596 SCRA 257.

[38] G.R. No. 182418, May 8, 2009, 587 SCRA 809.

[39] G.R. No. 177220, April 24, 2009, 586 SCRA 647.

[40] 589 Phil. 259 (2008).

[41] 576 Phil. 576 (2008).

[42] *Id.* at 587.

[43] G.R. No. 206738, December 11, 2013.

[44] 590 Phil. 214 (2008).

[45] *Id.* at 240-241.

[46] *People v. Almorfe*, G.R. No. 181831, March 29, 2010, 617 SCRA 52, 61-62.

[47] G.R. No. 182528, August 14, 2009, 596 SCRA 350.

[48] See Footnote 16 in *People v. Coreche*, *id.* at 358.

[49] *Supra* note 44, at 232.

[50] *Supra* note 46, at 60.

[51] G.R. No. 186498, March 26, 2010, 616 SCRA 652.

[52] *Id.* at 662.

[53] Records, p. 142.

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