

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. CLOVER A. VILLARTA, ACCUSED-APPELLANT.

G.R. No. 217887. March 14, 2018

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

This is an appeal from the October 22, 2014 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR HC [No.] 01629, which affirmed the January 31, 2013 Decision[2] of the Regional Trial Court (RTC), Branch 13 of Cebu City in Criminal Case Nos. CBU-88596 and CBU-88597 finding Clover A. Villarta (appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act (RA) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and sentencing him to life imprisonment and to pay a fine of P500,000.00 for the illegal sale of shabu, and to an indeterminate sentence of twelve (12) years and one (1) day to thirteen (13) years and to pay a fine of P300,000.00 for illegal possession of shabu.

Factual Antecedents

Appellant was charged with violation of Sections 5 and 11, Article II of RA 9165, for selling and for possessing, respectively, methamphetamine hydrochloride, locally known as shabu. The Information[3] in Criminal Case No. CBU-88596 alleged:

That on or about the 3rd day of April 2010 at about 12:30 A.M., in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, [appellant], with deliberate intent, and without authority of law, did then and there sell, deliver or give away to poseur[-]buyer one (1) staple-sealed transparent plastic sachet of white crystalline substance weighing 0.01 gram, locally known as shabu, containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.

And the Information[4] in Criminal Case No. CBU-88597 alleged —

That on or about the 3rd day of April, 2010 at about 12:30 A.M., in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, [appellant], with deliberate intent, did then and there have in his possession and control two (2) heat[-]sealed transparent plastic sachets of white crystalline substance x x x weighing 0.02 and 0.01 gram, or a total of 0.03 gram, locally known as shabu, containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.

Appellant pleaded not guilty to both Informations.[5]

Version of the Prosecution

The prosecution built its cases chiefly upon the testimonial evidence[6] furnished by PO2[7] Joseph Bugtai (PO2 Bugtai). This witness testified that on April 2, 2010 at the Investigation and Detective Management Branch

(IDMB) Office, Camp Sotero Cabahug, Gorordo Avenue, Cebu City, a confidential agent told him and his fellow police officers, namely, PO3 Regalado Dela Victoria (PO3 Dela Victoria), PO3 Melbert Dio,[8] PO1 Alain Dignos, PO3 Almer Maglinte, and SPO1 Alfredo Petallar (SPO1 Petallar) that a certain Jake was engaged in illegal drug activities in Sanciango[9] Street, near the Sugo Hotel,[10] hence he and his fellow police officers planned a buy-bust operation.

PO2 Bugtai narrated that they coordinated first with the Philippine Drug Enforcement Agency (PDEA) as evidenced by a Coordination Form and a Pre-Operation Report; that he was designated as poseur-buyer; that the confidential agent had already made a pre-arranged deal with Jake; that the buy-bust money consisting of two pieces of P100.00 carried SPO1 Petallar's initials and had been photographed; that he and the confidential agent arrived at Sanciango Street riding in a motorcycle, while the rest of the buy-bust team followed on board an unmarked service vehicle; that when they reached Sanciango Street at around 12:30 a.m. of April 3, 2010, Jake approached them and asked the confidential agent if he (PO2 Bugtai) was the buyer to which the confidential agent answered in the affirmative; that Jake said that the "item" was worth P200.00; that upon his request, Jake showed the same to him; that he said, "Okay, we're good," which meant that he was willing to buy the item; that Jake delivered the item to him and he gave Jake the buy-bust money; that after the exchange and as agreed upon during the buy-bust team's briefing, he flashed the pre-arranged signal by touching his hair with his left hand; that his companions then rushed towards them; that he held Jake and tried to recover the buy-bust money from him; that a scuffle ensued but he eventually recovered the buy-bust money with the help of his companions: that at that point, he arrested Jake and informed the latter of the offense he had committed and the rights of an accused; that as a matter of procedure, he conducted a body search upon Jake for any deadly weapon; and that as a result of said search, he recovered two packs of shabu from the right pocket of Jake's short pants.

PO2 Bugtai further recounted that he was in custody of the subject dangerous drugs from the place of the incident and back to the IDMB office; that the buy-bust team failed to bring a container to seal the seized dangerous drugs; that as the buy-bust team had no marking paraphernalia at the time, he marked at the police station the dangerous drugs subject of the sale as CAV-BB, while the two items recovered during the body search were marked as CAV and CAV-1; that after the marking, they made a request for laboratory examination of the subject seized dangerous drugs; that he also delivered the subject seized dangerous drugs to the crime laboratory; that he came to know the true name of Jake, the appellant herein; that PO3 Dela Victoria took pictures of the subject seized dangerous drugs; that it was SPO1 Petallar who signed the inventory that he (PO2 Bugtai) prepared, with a notation stating that "no barangay official available to sign the inventory receipt"; and that no representative from the media and from the Department of Justice (DOJ) signed the inventory because of difficulty in getting their presence early in the morning.

The prosecution and the defense entered into a stipulation regarding the testimonies of SPO1 Petallar and the Philippine National Police's (PNP's) Forensic Chemist.

Thus, the RTC's Order of May 10, 2012[11] stated:

In view of the fact that the prosecution and the defense stipulated that if SPO1 Petallar would testify[, then] the gist of his testimony would be, as follows:

1. That he was one of the back-ups in the buy-bust operation;

x x x x

4. That he rushed up after seeing the pre-arranged signal to assist the poseur[-]buyer in arresting the accused;
5. The buy [-bust] money was recovered by [PO2] Bugtai and that the same could be identified by him through

the marking he [had] made; and

6. That he has no personal knowledge with [regard] to the actual exchange of money for shabu.[12]

With respect to the testimony of the Forensic Chemist, the prosecution and the defense likewise entered into a stipulation, to wit:

[Assistant City Prosecutor Jose Nathaniel S. Andal (Pros. Andal) and appellant's counsel, Public Attorney's Office Lawyer Atty. Benison Harayo (PAO), to the RTC]

Pros. Andal:

My next witness will be the forensic chemist, Ryan Sala [Sala], Your Honor. May we know from the defense, Your Honor, if they will admit that [Sala] is an expert in the field of forensic chemistry?

[PAO]:

Yes, Your Honor.

Pros. Andal:

That he was the one who examined the evidence.

[PAO]:

Yes, Your Honor.

Pros. Andal:

That he prepared Chemistry Report No. D-307-2010.

[PAO]:

Yes, Your Honor.

Pros. Andal:

We will admit also, Your Honor, that [Sala] has no knowledge as to the source of the evidence and that he has no knowledge whether there was tampering, if any, of the evidence prior to the delivery of the same to the Crime Laboratory.

COURT:

ORDER: In view of the fact that the defense admitted the expertise of [Sala], the existence of the documentary and object evidence, that he examined the object evidence and that in connection therewith he prepared a chemistry report, and the fact that the prosecution admitted that [Sala] had sic knowledge with respect to the source of the object evidence he examined and that he has no knowledge also if the evidence was tampered before the same was examined, the prosecution therefore is dispensing with his testimony.[13] (Emphasis supplied.)

The prosecution formally offered the following exhibits,[14] viz. a Coordination Form signed by SPO1 Petallar, Police Chief Inspector George V. Ylanan and Police Superintendent Pablo G. Labra II with time/date indicated as 2339H April 2, 2010 (Exhibit "A"),[15] a Pre-Operational Report signed by SPO1 Petallar (Exhibit "B"),[16] two P100.00 bills used as buy-bust money (Exhibit "C"),[17] object evidence (Exhibit "D"),[18] a letter-request for laboratory examination (Exhibit "E"),[19] a print-out of the photographs (Exhibit "F"),[20] an Inventory Receipt (Exhibit "G"),[21] the pertinent page of the relevant police blotter (Exhibit "H"),[22] and Chemistry Report No.

D-307-2010 (Exhibit "I").[23] The RTC admitted all of these pieces of evidence.[24]

Version of the Defense

Appellant presented himself as the sole witness for the defense.[25] He testified that he was in his sister's house on April 2, 2010; that he texted his acquaintance, one named Mark, for them to go out on a date; that he arrived at the Sogo Hotel at about 10:30 p.m. or 11:00 p.m. and waited for Mark; that Mark arrived at said place around 12:30 a.m. of April 3, 2010; that after telling Mark that they will go inside the Sogo Hotel, around four people in civilian attire suddenly told him that he was under arrest; that he was shocked, hence he resisted; that he saw one of those trying to arrest him slip something into his pocket because at that time he was wearing a six-pocket shorts; that he asked the reason for his arrest; that he was beaten up instead when he said that the evidence was planted; that he did not see anymore the person who had slipped something into his pocket; that Mark was present when he was arrested; that Mark then told him that what happened was "just fair" as he did not immediately give them money; that Mark probably set him up; that he only knew Mark a month before his arrest; that he was certain that he was transferred from one police station to another but he could not exactly recall whether he was brought first to the Mabolo police station, and then to the Gorordo police station; that Mark was no longer present when he was brought to the police station; that he was punched in his stomach, at the police station when he shouted aloud that the prohibited substance was planted by the police; that the only police officer who was present during his arrest was SPO1 Petallar; that the persons who arrested him were strangers to him; that he believed that Mark was in league with the policemen who planted the drug on him; that the reason why Mark became angry with him was because he (appellant) did not readily share his money with him (Mark); that during his previous meeting with Mark, the latter was already hinting that he wanted money but he (appellant) had to leave suddenly to attend to a client's inquiry about a certain property in Collinwood Subdivision; that he really did not know much about Mark except for unverified information that Mark was a Criminology graduate and that his father was a Colonel; that the policemen never returned his bag and its contents; and that it was only two days after his arrest that he learned that cases for illegal possession and for illegal sale of dangerous drugs had been filed against him.

Appellant further claimed that the charges against him were fabricated; that the alleged poseur-buyer, PO2 Bugtai, was never present during the arrest as shown by the latter's incorrect statements regarding the location of his fellow police officers during the arrest; that there was no transaction at all involving drugs; that he did not file a case against the policemen because he was in jail and because he knew that no case against said policemen would prosper; that before his arrest, he was a licensed real estate consultant and not a drug peddler; that as a licensed real estate consultant, he was earning good income and had won the top seller award five times prior to his arrest; and that he, however, did not hire a private lawyer because he has no more income and his savings were to be used for his needs in jail and the payments for his house where his parents also lived.

Appellant offered in evidence the Identification Card issued to him by Primary Homes, Inc. (Exhibit "I").[26] It was admitted in evidence by the RTC.[27]

Ruling of the Regional Trial Court

In its Decision of January 31, 2013,[28] the RTC found appellant guilty beyond reasonable doubt of the crimes charged. The dispositive part thereof reads:

WHEREFORE, judgment is hereby rendered finding the accused CLOVER A. VILLARTA GUILTY beyond reasonable doubt for Violation of Section 5, Art. 2, RA 9165 in CBU-88596 and sentences him to a penalty of LIFE IMPRISONMENT, plus fine in the amount of P500,000.00.

In CBU-88597, he is also found GUILTY beyond reasonable doubt for possession of the two (2) sachets of shabu which [are] found positive for the presence of methamphetamine hydrochloride. The court imposes an

imprisonment of TWELVE (12) YEARS AND ONE (1) DAY TO THIRTEEN (13) YEARS, plus fine in the amount of P300,000.00.

The one (1) staple[-]sealed transparent plastic pack of shabu weighing 0.01 gram mentioned in the information and marked as Exhibit D for the prosecution is hereby ordered CONFISCATED AND DESTROYED.

The two plastic sachets of shabu with a total weight of 0.03 gram mentioned in the information are also ordered CONFISCATED AND DESTROYED.

SO ORDERED.[29]

The RTC ruled that Section 21, Article II of RA 9165 had been substantially complied with; that the chain of custody of the subject dangerous drugs had been proved; and that the movement of the subject dangerous drugs from the crime scene to the police station, then to the PNP Crime Laboratory, and thereafter to the court had also been established. In particular, the RTC found that the subject dangerous drugs had been marked, had been photographed, and presented in court; that the buy-bust money had been produced and identified; that there was no evidence of tampering or alteration of the subject dangerous drugs; and that an inventory thereof was made, and a receipt therefor issued.

Regarding appellant's uncorroborated claim that the subject dangerous drugs had been "planted" to incriminate him, the RTC declared that there was no reason why the policemen would do that; that PO2 Bugtai had no ill motive to testify falsely against appellant; that PO2 Bugtai's testimony was straightforward; and that appellant's allegation that his male date, Mark, set him up, was not believable.

The RTC added that the prosecution had sufficiently proved the presence of all the elements of both crimes of selling and possession of dangerous drugs, because the seller and the buyer had been identified, and because the object evidence and the buy-bust money had been presented in court, as indeed, there was a clear exchange of money between the appellant and PO2 Bugtai for packets of shabu. The RTC likewise noted that there was also a search incidental to a lawful arrest; that the police found two heat-sealed transparent plastic sachets of white crystalline substance in one of appellant's pockets; that these plastic sachets had been marked prior to their delivery to the PNP Crime Laboratory; that these were moreover presented in court and were admitted as evidence; and that intent to possess can be gathered from the fact that the two sachets were found in one of appellant's pockets.

Ruling of the Court of Appeals

In its October 22, 2014 Decision,[30] the CA disposed as follows:

WHEREFORE, the appeal is hereby DENIED. The Decision of the RTC, Branch 13, Cebu City dated January 31, 2013 in Criminal Cases Nos. CBU-88596 and CBU-8S597 is hereby AFFIRMED in toto.

SO ORDERED.[31]

The CA held that the prosecution had successfully established all the elements of illegal sale of shabu as well as all the elements of illegal possession of shabu.

Dismissing appellant's claim that his guilt was not proven beyond reasonable doubt, the CA ruled that the non-recording of the marked money would not necessarily result in acquittal as long as the sale of the prohibited drug is adequately proven; that appellant failed to adduce clear and convincing evidence to overcome the presumption that government officials had performed their duties in a regular manner; that the chain of custody of the subject dangerous drugs had been observed as "[t]his can be deduced from the time the police officers arrested the [appellant] and confiscated the two (2) plastic packets containing shabu from [appellant's] pocket, the issuance

of an inventory receipt, the transport of the specimen[s] to the police station and up to the time said specimen[s] were submitted to [the] PNP Crime Laboratory for laboratory examination";[32] and that the fact that the subject dangerous drugs were marked at the police station instead of at the crime scene and that the prosecution failed to show that the buy-bust team complied with the required inventory and photographs did not ipso facto render inadmissible in evidence the items seized in view of the proviso in Section 21 (a) of the Implementing Rules and Regulations (IRR) of R.A. 9165 which allow non-compliance provided there are justifiable grounds shown therefor and that the integrity and evidentiary value of the evidence are proven to have been preserved.

From the CA's Decision, appellant filed his Notice of Appeal which was given due course by the CA.[33]

In his Manifestation (in lieu of Supplemental Brief) before this Court,[34] appellant adopted the Brief[35] that he had filed with the CA wherein he submitted the following errors:

I

THE [RTC] ERRED IN CONVICTING THE [APPELLANT] OF VIOLATION OF SECTION 5, ARTICLE II, [RA] 9165 DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT[.]

II

THE [RTC] ALSO ERRED IN CONVICTING THE [APPELLANT] OF VIOLATION OF SECTION 5 AND SECTION 11, ARTICLE II, [RA] 9165 DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE CORPUS DELICTI OF THE CRIME AS THE CHAIN OF CUSTODY [WAS] UNRELIABLE[.][36]

On the other hand, the Office of the Solicitor General insisted that the prosecution had proven appellant's culpability beyond reasonable doubt; and that appellant's plea for the reversal of his conviction lacked merit.

Our Ruling

This Court resolves to acquit the appellant on the ground that his guilt has not been proved beyond reasonable doubt.

"[G]enerally, the trial court's findings of fact, especially when affirmed by the CA, are entitled to great weight and will not be disturbed on appeal." [37] However, it is also settled that "an appeal in a criminal case opens the whole case for review on all questions including those not raised by the parties." [38] Additionally, "[t]he rule [that the trial court's findings of fact, especially when affirmed by the CA, are entitled to great weight], however, does not apply where facts of weight and substance have been overlooked, misapprehended or misapplied in a case under appeal," [39] as in this case.

Moreover, "[o]ur Constitution mandates that an accused shall be presumed innocent until the contrary is proven beyond reasonable doubt. The burden lies with the prosecution to overcome this presumption of innocence by presenting the required quantum of evidence; the prosecution must rest on its own merits and must not rely on the weakness of the defense." [40] Furthermore, "[i]f the prosecution fails to meet the required evidence, the defense does not need to present evidence on its behalf, [for] the presumption prevails and the accused should be acquitted." [41]

In the instant case, the CA's affirmance of the RTC's finding that appellant is guilty of the crimes penalized under Sections 5 [42] and 11, [43] Article II of RA 9165 seems to fly in the face of the principles governing the resolution of cases involving said crimes as enunciated in well-established jurisprudence, to wit:

To secure a conviction for illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the

prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor. What is important is that the sale transaction of drugs actually took place and that the object of the transaction is properly presented as evidence in court and is shown to be the same drugs seized from the accused.

On the other hand, for illegal possession of dangerous drugs, the following elements must be established: '[1] the accused was in possession of dangerous drugs; [2] such possession was not authorized by law; and [3] the accused was freely and consciously aware of being in possession of dangerous drugs.'

In cases of illegal sale and illegal possession of dangerous drugs, the dangerous drug seized from the accused constitutes the corpus delicti of the offense. Thus, it is of utmost importance that the integrity and identity of the seized drugs must be shown to have been duly preserved. 'The chain of custody rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed.'^[44] (Emphasis supplied.)

The term chain of custody pertains to 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."^[45] "In prosecuting both illegal sale and illegal possession of dangerous drugs, conviction cannot be sustained if doubt persists on the identity of said drugs."^[46] In this connection, it is settled that:

xxx The identity of the dangerous drug must be established with moral certainty. Apart from showing that the elements of possession or sale are present, the fact that the dangerous drug illegally possessed and sold is the same drug offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.

Because it is indispensable that the substance confiscated from the accused be the very same substance offered in court, the Court has adopted the chain of custody rule, a method of authenticating evidence which 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.

The chain of custody is established by testimony about every link in the chain, from the moment the item was picked up to the time it is offered in evidence, in such a way that every person who touched the exhibit would be able to 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. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.

As a general rule, the prosecution must endeavour to establish four links in the chain of custody of the confiscated item: first, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.^[47] (Emphasis supplied.)

In the case under review, this Court finds that the CA erred in affirming the RTC's finding that appellant is guilty beyond reasonable doubt of the crimes charged. Indeed, this Court finds that the prosecution miserably failed to establish an unbroken chain of custody of the confiscated items.

To start with, in regard to the first link in the chain of custody in the instant case, PO2 Bugtai testified that he seized the illegal drugs from appellant at the locus criminis, and did not mark them immediately, but marked the

same only after he got to the police station. In fact, he suggested that the reason for the non-marking of the prohibited drugs at the crime scene was because he failed to bring a marking pen at the place of arrest and seizure, viz.:

[Pros. Andal to the witness, PO2 Bugtai]

Q:

If I show to you the pack of shabu you bought from [appellant], would you be able to identify it, Mr. Witness?

A:

Yes, Sir.

Q:

How?

A:

Through the marking.

Q:

What is the marking?

A:

CAV-BB.

Q:

What about the two packs of shabu you recovered after the arrest?

A:

CAV and the other one is CAV-1.

Q:

Who marked the evidence?

A:

I was the one, Sir.

Q:

At the crime scene or at the police station?

A:

At the police station, Sir.

Q:

Why not at the crime scene?

A:

At that time we failed to bring a container where we can seal the evidence as well as marking paraphernalia.[48] (Emphasis supplied.)

Given the foregoing admission by the only witness to testify for the prosecution, "[i]t is evident that there was a break [a gap, or an interval] in the very first link of the chain when [this police officer] failed to mark the sachets of shabu immediately upon seizing them from the appellant." [49] Quite clearly, this does not accord with the mandatory requirement of the law. Thus it has been held that:

The first link in the chain is the marking of the seized drug. We have previously held that:

xxx Marking after seizure is the starting point in the custodial link, thus it is vital that the seized contraband are immediately marked because succeeding handlers of the specimen will use the markings as reference. The marking of the evidence serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, obviating switching, 'planting,' or contamination of evidence.

It is important that the seized drugs be immediately marked, if possible, as soon as they are seized from the accused.

[The reason for this marking immediately upon arrest or seizure is set forth] in *People v. Gonzales*, [thus –]

The first stage in the chain of custody rule is the marking of the dangerous drugs or related items. Marking, which is the affixing on the dangerous drugs or related items by the apprehending officer or the poseur-buyer of his initials or signature or other identifying signs, should be made in the presence of the apprehended violator immediately upon arrest. The importance of the prompt marking cannot be denied, because succeeding handlers of dangerous drugs or related items will use the marking as reference. Also, the marking operates to set apart as evidence the dangerous drugs or related items from other material from the moment they are confiscated until they are disposed of at the close of the criminal proceedings, thereby forestalling switching, planting or contamination of evidence. In short, the marking immediately upon confiscation or recovery of the dangerous drugs or related items is indispensable in the preservation of their integrity and evidentiary value.[50]

The inevitable consequences of failure to observe this unflagging strictness and rigor in the law is emphasized in the case of *People v. Ismael*, [51] thus – "there was already a significant break such that there can be no assurance against switching, planting, or contamination. The Court has previously held that, 'failure to mark the drugs immediately after they were seized from the accused casts doubt on the prosecution evidence warranting an acquittal on reasonable doubt.'" [52]

Of course, the following case law rulings drew their breath of life from Section 21, Article II of RA 9165, which in part, provides that:

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, seized and/or surrendered, for proper disposition in the following manner:

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

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

(3) 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;

(4) 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: Provided, further, That a representative sample, duly weighed and recorded is retained;

xxxx[53]

In the case at bench, a perusal of the buy-bust team's exhibit entitled Inventory Receipt[54] signed by SPO1 Petallar reveals that the same was undated and did not contain the requisite signatures 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], and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof"[55] as to signify that such physical inventory was done in their presence. PO2 Bugtai's testimony also continued this fact:

[Pros. Andal to the witness, PO2 Bugtai]

Q:

Who prepared the inventory, Mr. Witness?

A:

Me, Sir.

Q:

Here is an inventory attached to the record, is this the one you prepared?

A:

Yes, Sir.

Q:

Why is it that it was SPO1 Petallar who affixed his signature in the inventory?

A:

He was the deputy and at the same time our investigator.

Q:

I read some notes here. It says, "no barangay official available to sign the inventory receipt." Is this correct?

A:

Yes, Sir.

Q:

What about personnel from the media, were there any?

A:

None, Sir.

Q:

From the DOJ?

A:

None, Sir.

Q:

It was early in the morning, at dawn, can you expect to get the presence of the media personnel and the DOJ?

A:

No, Sir.

Q:

It was not easy for you to do that?

A:

Yes, Sir

Your Honor, may we ask that the inventory be marked Exhibit "G" and the note "no barangay officials arrived to sign the inventory" be marked Exhibit "G-1." [56]

Needless to say, the lower courts overlooked the fact that the foregoing testimony of PO2 Bugtai revealed that he had no actual personal knowledge regarding the preparation of the Inventory Receipt as this was clearly signed by SPO1 Petallar and not by him. And, as earlier mentioned, SPO1 Petallar did not testify relative to this matter and no stipulation pertaining to this was mentioned in the RTC Order dated May 30, 2012. [57]

In addition, the following cross-examination of PO2 Bugtai showed non-compliance with the required photographing of the evidence:

[PAO, to the witness, PO2 Bugtai]

Q:

And also [PO3] Dela Victoria took pictures of the evidence?

A:

Yes, Sir.

Q:

But you cannot tell this Honorable Court the model of the camera. and model of the cell phone that was used by [PO3] Dela Victoria?

A:

It was a cellular phone but I cannot just tell what model of cellular phone it was.

Q:

Also, Mr. Witness, you said you are familiar with Section 21. Aside from this picture, you cannot see pictures attached to the record that will depict the evidence together with the accused?

A:

Yes, Sir.

Q:

Also you cannot show any picture of the evidence together with the representative of the barangay or anything?

A:

Yes, Sir.[58]

In *People v. Del Mundo*,^[59] the Court acquitted the appellant thereon because of the undated inventory presented by the prosecution, to wit:

While the prosecution was able to present the inventory of the confiscated items, which was apparently prepared by PO3 Rodil, and attested to by Ocampo, Sr., of Kill Droga, the Court opines that the same could not be given any credence. Readily apparent from the said inventory is the fact that it is undated. Hence, the requirement that the inventory must be made immediately after seizure was not satisfied.^[60]

Furthermore, in *People v. Miranda, Jr.*,^[61] the Court ruled that the inexcusable failure to observe the requirements regarding the physical inventory and photographs justified the acquittal of the appellant based on reasonable doubt:

The Court has emphasized the import of Section 21 as a matter of substantive law that mandates strict compliance. The Congress laid it down as a safety precaution against potential abuses by law enforcement agents who might fail to appreciate the gravity of the penalties faced by those suspected to be involved in the sale, use or possession of illegal drugs. Only by such strict compliance may the grave mischiefs of planting or substitution of evidence and the unlawful and malicious prosecution of the weak and unwary that the law intended to prevent may be eliminated. Under the principle that penal laws are strictly construed against the government and liberally in favor of the accused, stringent compliance therewith is fully justified.

Herein, the requirements of physical inventory and photograph-taking of the seized drugs were not observed. This noncompliance raises doubts whether the illegal drug items used as evidence in both the cases for violation of Section 5 and Section 13 of [RA] 9165 were the same ones that were allegedly seized from appellants. PO1 Yang significantly testified as follows:

Q:

Have you issued any receipt regarding what was allegedly seized from the accused?

A:

The inventory sheet? Only the request which we brought there at the Crime Laboratory Office, sir.

Q:

So you have not prepared any inventory?

A:

None, Sir.

Q:

For how long have you been a police officer Mr. witness?

A:

For almost five (5) years now.

x x x x

Q:

So, was there any elected officials present during that operation Mr. witness?

A:

None, Sir.

Q:

So, there were also no media present at that time?

A:

None.

Q:

You have not also photographed what you have seized from the accused?

A:

: No, Sir.

x x x x

Q:

x x x Why were you not able to snake photograph during the inventory and you failed to make any inventory?

A:

Because it was already nighttime and there is no available camera and during that time I was just new in the service and I am not familiar with the inventory.

[There is hardly any doubt that] the apprehending team never conducted an inventory nor did they photograph the seized drugs in the presence of the appellants or their counsel, a representative from the media and the Department of Justice, or an elective official either at the place of the seizure, or at the police station. In *People v. Gonzales*, this Court acquitted the accused based on reasonable doubt for failure of the police to conduct an inventory and to photograph the seized plastic sachet. We explained therein that 'the omission of the inventory and the photographing exposed another weakness of the evidence of guilt, considering that the inventory and photographing — to be made in the presence of the accused or his representative, or within the presence of any representative from the media, Department of Justice or any elected official, who must sign the inventory, or be given a copy of the inventory, were really significant stages of the procedures outlined by the law and its IRR.[62]

More than that, the defense registered its vigorous objections to the admission of the prosecution's exhibits, thus —

[PAO to the Court] x x x First of all, we object to Exhibit ["D"], Your Honor, the pieces of evidence, considering that there was no clear showing of the consummated transaction of record. So the alleged evidence recovered is considered by the defense, Your Honor, as fruits of the poisonous tree.

We object. Your Honor, [to] the Coordination Form, the Pre-Operation Report, the laboratory request, the blotter[,] and the chemistry report for being self-serving.

We object [to] Exhibit "C", the buy-bust money, considering that it was not recorded in any record or document prior to the operation, Your Honor.

We object, [to] Exhibit "F"[,] the photograph attached to the record/expediente of this Honorable Court based on the best evidence rule considering that what are attached in the expediente are all photocopies, Your Honor, because they are just in bond paper, Your Honor, reflected in bond paper. Meaning, they are not developed evidence of photograph. Also[,] we are objecting [to] its admissibility considering that the person who photographed the picture was not presented[, thus] the photograph was not properly authenticated.

We object also [to] the certificate of inventory for non-compliance [with the] requirement's] set forth in Section 21.

Yes, Sir. That's all, Your Honor,

COURT:

ORDER:

Exhibits "A" to "I" are all admitted in evidence.

SO ORDERED.[63]

We have held that:

[RA] 9165 and its implementing rules and regulations both state that non-compliance with the procedures thereby delineated and set would not necessarily invalidate the seizure and custody of the dangerous drugs provided there were justifiable grounds for the non-compliance, and provided that the integrity of the evidence of the corpus delicti was preserved. Herein, the proffered excuses were that it was night-time, there was no available camera and that the police officer who had initial custody of the seized drugs was new in the service and was not familiar with the inventory requirement. The Court finds that these explanations do not justify non-compliance with the required procedures of [RA] 9165. These will not do. It is well to recall that the informant first reported about appellant Miranda's illegal drug activities in the morning of the day of the alleged buy-bust operation and came back around five o'clock in the afternoon. The operation was set around 7:30-8:00 p.m. There were seven (7) men in the team, including the informant. There was sufficient time to obtain a camera and they had the human resources to scout for one. That PO1 Yang was new in the service does not excuse non-compliance as there were other members of the team who could have initiated the conduct of the inventory and photograph-taking. Besides, the team had been briefed before the entrapment operation which would reasonably include a run-through of the procedures, outlined in the law for the handling of the seized drugs. The excuses are lame if not downright unacceptable.

Considering that the non-compliance with the requirements of Section 21 in the case at bar is inexcusable, the identity and integrity of the drugs used as evidence against appellants are necessarily tainted. Corpus delicti is the actual commission by someone of the particular crime charged. In illegal drugs cases, it refers to illegal drug itself. When the courts are given reason to entertain reservations about the identity of the illegal drug item alleged seized from the accused, the actual crime charged is put into serious question. Courts have no alternative but to acquit on the ground of reasonable doubt. Unexplained non-compliance with the procedures for preserving the chain of custody of the dangerous drugs has frequently caused the Court to absolve those

found guilty by the lower courts.[64]

RA 9165 and its IRR had been in effect since 2002 while the incident in the case at bar happened years after in 2010. In this light, it is judicious to conclude the possibility of seizure or arrest at nighttime and dawn had been anticipated including the likelihood of sudden receipt of information from confidential agents, hence it is reasonable for the persons charged with the implementation thereof to have put a system in place to ensure compliance with the pertinent laws and regulations during such situations. In this case, however, the prosecution failed to show that they even at least tried to contact "a representative from the media and the [DOJ], and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof"[65] as to signify that such physical inventory was done in their presence. Moreover, the prosecution failed to authenticate the alleged Inventory Receipt and photographs that it had presented. And the fact that the inventory and photographs are still required by RA 10640, which amended RA 9165, buttresses the indispensability of these requisites.

On the third and fourth links in the chain of custody, the Court notes that the RTC stated in its January 31, 2013 Decision that the testimony of the Forensic Chemist "was dispensed with because the defense admitted his expertise; that he was the one who examined the object evidence; and that in connection therewith, he issued a chemistry report".[66] The RTC mentioned that "the prosecution also admitted that [said] forensic chemical officer has no personal knowledge with respect to the origin and source of the dangerous drug he [had] examined".[67] Such stipulations with respect to the forensic chemical officer failed to help the prosecution. As held in *People v. Havana*: [68]

Nor can the prosecution gain from the testimony of the forensic chemist PCI Salinas. The records show that there is nothing positive and convincingly clear from the testimony of PCI Salinas. She did not at all categorically and straightforwardly assert that the alleged chemical substance that was submitted for laboratory examination and thereafter presented in court was the very same substance allegedly recovered from the appellant. If anything, the sum and substance of her testimony is that the alleged pack of shabu submitted to her for laboratory examination showed that it was positive for methamphetamine hydrochloride or shabu. She never testified where the substance came from. Her testimony was limited only on the result of the examination she conducted and not on the source of the substance.[69]

In addition, it has been ruled that there is a gap or break in the fourth link of the chain of custody where there is absence of "evidence to show how the seized shabu were handled, stored, and safeguarded pending its presentation in court,"[70] as in this case.

We reiterate that "while this Court in certain cases has tempered the mandate of strict compliance with the requisite under Section 21 of RA 9165, such liberality, as stated in the Implementing Rules and Regulations can be applied only when the evidentiary value and integrity of the illegal drug are properly preserved x x x,"[71] which is, however, not present in the instant case.

"The campaign against drugs deserves the full support and encouragement from this Court. However, compliance with the procedures laid down by law, such as that involving the chain of custody of the illegal drugs, must be complied with."[72]

In brief, this Court is constrained to acquit appellant based on reasonable doubt in view of the prosecution's failure to "(1) overcome the presumption of innocence x x x; (2) prove the corpus delicti of the crime; (3) establish an unbroken chain of custody of the seized drugs; and [(4)] offer any explanation why the provisions of Section 21, RA 9165 were not complied with".[73] As such, all other issues need not be resolved as the result will not be altered.

WHEREFORE, the appeal is GRANTED. The assailed October 225 2014 Decision of the Court of Appeals in CA-G.R. CR HC [No.] 01629, which affirmed the January 31, 2013 Decision of Branch 13 of the Regional Trial Court of Cebu City in Criminal Case Nos. CBU-88596 and CBU-88597, is REVERSED and SET ASIDE. Accordingly, appellant Clover A. Villarta is ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately RELEASED from detention, unless he is confined for any other lawful cause. Let a copy of this Decision be FURNISHED to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court, within five days from receipt of this Decision, the action he has taken. Copies shall also be FURNISHED to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency FOR THEIR INFORMATION.

SO ORDERED.

Leonardo-De Castro,[*] Peralta,**] and Tijam, JJ., concur.
Serenio, C.J., on leave.

[*] Designated as Acting Chairperson pursuant to Special Order No. 2540 dated February 28, 2018.

[**] Designated as additional member per November 29, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.

[1] CA rollo, pp. 69-86; penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Ramon Paul L. Hernando and Marie Christine Azcarraga-Jacob.

[2] Records, pp. 87-92; penned by Judge Meinado P. Paredes (also referred to as Judge Meinrado P. Paredes in some parts of the records).

[3] Id. at 1-2.

[4] Id. at 18-19.

[5] Id. at 16-17 and 30-31.

[6] TSN, October 11, 2012, pp. 3-32.

[7] Also referred to as PO1 Bugtai and PO3 Bugtal in some parts of the records.

[8] Also referred to as PO3 Deo in some parts of the records.

[9] Also referred to as Sanciangco in some parts of the records.

[10] Also referred to as Sogo Hotel in some parts of the records.

[11] Records, p. 63.

[12] Id.

[13] TSN, October 11, 2012, pp. 32-34.

[14] Id. at 34-36.

[15] Records, p. 7.

[16] Id. at 8.

[17] Id. at 10.

[18] Ordered to be confiscated and destroyed in the January 31, 2013 RTC Decision (Id. at 92).

[19] Records (separate folder designated as containing the State's exhibits), 2[nd] unpaginated page.

[20] Records, p. 11.

[21] Id. at 9.

[22] Id. at 12-13.

[23] Records (separate folder designated as containing the State's exhibits), 3[rd] unpaginated page.

[24] TSN, October 11, 2012, p. 37; RTC Order dated October 11, 2012 (records, p. 80).

[25] TSN, January 24, 2013, pp. 1-27.

[26] Records (separate folder designated as containing the accused's exhibits), 2[nd] unpaginated page.

[27] TSN, January 24, 2013, pp. 27-28; RTC Order dated January 24, 2013 (records, p. 85).

[28] Records, pp. 87-92.

[29] Id. at 92.

[30] CA rollo, pp. 69-86.

[31] Id. at 85.

[32] Id. at 82.

[33] Id. at 90-91 and 94-95.

[34] Rollo, pp. 31-34.

[35] CA rollo, pp. 16-31.

[36] Id. at 18.

[37] *People v. Havana*, G.R. No. 198450, January 13, 2016, 778 SCRA 524, 532.

[38] Id.

[39] *People v. Del Mundo*, G.R. No. 208095, September 20, 2017.

[40] *People v. Miranda, Jr.*, G.R. No. 206880, June 29, 2016, 795 SCRA 227, 235.

[41] Id.

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

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be

imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided, for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[43] SEC. 11. Possession of Dangerous Drugs. — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof: (1) 10 grams or more of opium; (2) 10 grams or more of morphine; (3) 10 grams or more of heroin; (4) 10 grams or more of cocaine or cocaine hydrochloride; (5) 50 grams or more of methamphetamine hydrochloride or "shabu"; (6) 10 grams or more of marijuana resin or marijuana resin oil; (7) 500 grams or more of marijuana; and (8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDMA) or "ecstasy", paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxybutyrate (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

(1) Life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or "shabu" is ten (10) grams or more but less than fifty (50) grams;

(2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five hundred

(500) grams of marijuana; and

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

[44] People v. Ismael, G.R. No. 208093, February 20, 2017.

[45] People v. Havana, supra note 37 at 534, citing Section 1(b) Dangerous Drugs Board Regulation No. Series of 2002.

[46] People v. Del Mundo, supra note 39. Emphasis supplied.

[47] Id.

[48] TSN, October 11, 2012, pp. 19-20.

[49] People v. Ismael, supra note 44.

[50] Id.

[51] Id.

[52] Id.

[53] Section 21 of RA 9165 has been amended by RA 10640, to wit:

SECTION 1. Section 21 of [RA 9165], is hereby amended to read as follows:

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, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media 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, finally, That noncompliance [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 and custody over said items.

x x x x

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic

laboratory examinee, shall be issued immediately upon the receipt of the subject item/s: Provided, That when the volume of 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 immediately upon completion of the said examination and certification; x x x x

[54] Records, p. 9.

[55] See Section 21, Article II, RA 9165.

[56] TSN, October 11, 2013, pp. 24-25.

[57] Records, p. 63.

[58] TSN, October 11, 2012, pp. 28-29.

[59] Supra note 39.

[60] Id.

[61] Supra note 40.

[62] Id. at 236-238.

[63] TSN, October 11, 2012, pp. 36-37.

[64] People v. Miranda, Jr., supra note 40 at 238-239.

[65] See Section 21, Article II, RA 9165.

[66] Records, p. 33; TSN, October 11, 2010, pp. 32-33.

[67] Id. at 33-34.

[68] Supra note 37.

[69] Id. at 536-537.

[70] People v. Prudencio, G.R. No. 203148, November 16, 2016, 809 SCRA 204, 210.

[71] People v. Havana, supra note 37 at 538-539.

[72] People v. Prudencio, supra at 221.

[73] People v. Ismael, supra note 44.

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