

PEOPLE OF THE PHILIPPINES, APPELLEE, V. CEASAR CONLU Y BENETUA, APPELLANT.

G.R. No. 225213. October 03, 2018

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This appeal challenges the 30 September 2015 Decision[1] of the Court of Appeals Cebu City in CA-G.R. CR HC No. 01755, which affirmed the 14 October 2013 Decision[2] of the Regional Trial Court, Branch 69, Silay City (RTC), convicting appellant Ceasar Conlu y Benetua[3] for violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Antecedent Facts

Appellant was charged with violation of Sections 5 and 11, Article II of Republic Act No. 9165 in Criminal Case Nos. 8615-69 and 8616-69. Since appellant was acquitted in Criminal Case No. 8615-69, the subject of this appeal is Criminal Case No. 8616-69 only.

The Information in Criminal Case No. 8616-69 reads:

That on April 18, 2012 in Silay City, Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell one heat[-]sealed sachet of shabu marked as "PALI-BBI" to an asset of the Silay City PNP posing as a poseur buyer in exchange for One two hundred peso bill with serial number T300611 and [one] fifty peso bill with serial number GF888950 all marked with an underline at the last digit of each serial number.

CONTRARY TO LAW.[4]

Upon arraignment, appellant pleaded not guilty. Thus, trial ensued.

Version of the Prosecution

The prosecution presented nine witnesses: P/Inspector Hernand Donado y Gutierrez, PO2 Edwin Albarico y Tupaz, P/C Insp. Paul Jerome Puentespina y Sedigo, PO2 Christopher Panes y Padernilla, Renato Palermo y De la Cruz (Barangay Captain Palermo), PO3 Joel Portus y Tumbale, PO2 Reynaldo Bernil, Jr. y Belmis (PQ2 Bernil), Noel Rojo y Solatorio (Kagawad Rojo), and PO2 Ian Libo-on y Jurisprudencia (PO2 Libo-on).

In its Brief, the prosecution presented the following version of the facts:[5]

Based on reports of rampant drug pushing in various areas in Silay City, Negros Occidental, the Chief of Police of Silay City PNP ordered the conduct of surveillance and monitoring in order to confirm such reports.

To verify the report that appellant and his brother are known to be drug pushers, the police conducted a test buy operation in their area through their asset, who was able to buy a small sachet of a white crystalline substance

which when tested was positive for shabu.

With this confirmation, the Chief of Police ordered a buy-bust operation by members of the Silay PNP and their civilian agents. They coordinated with the Philippine Drug Enforcement Agency (PDEA) in Silay City.

Marked money worth P250.00 was prepared and duly recorded before it was given to the police asset for use in the planned buy-bust. They then proceeded to the target area in Villa Hergon, Barangay Rizal, Silay City, Negros Occidental. The poseur-buyer went ahead to the target location.

Police operatives followed and went to the location of the operation after fifteen (15) minutes. Police officers Libo-on and Bernil were located approximately fifty (50) meters from where the asset and appellant were supposed to conduct their transaction when the poseur-buyer then called up the police operatives and told them to get ready. The police then moved toward the site, approximately ten (10) meters from where their asset and appellant were about to meet.

The poseur-buyer at that moment approached appellant and gave the latter the marked money. Appellant then put the marked money in the right front pocket of his cargo short pants, and then pulled out a small sachet containing crystalline substance and gave it to the poseur-buyer. To notify the operatives that the transaction was complete, the asset performed the pre-arranged signal by putting his right hand over his head. The operatives immediately rushed to the scene to arrest appellant.

PO2 Libo-on was the first to approach and arrest appellant, followed by PO2 Bernil and the rest of the buy-bust team. They recited to appellant his rights under the law and then brought the latter outside of their compound while other police operatives called for barangay officials.

When the barangay officials came, appellant was searched by Kagawad Rojo but was stopped after a resident carrying a bladed weapon caused a commotion. Police and local authorities brought appellant to the police station where the search was continued in a separate room where only the police and barangay officials were present. The body search yielded more sachets of shabu.

After the remaining sachet specimens were marked, a Certificate of Inventory was prepared for the witnesses and the police to sign. PO2 Libo-on then prepared a Request for Laboratory Examination, and then brought the specimens to the Crime Laboratory for testing. The Chemistry Report dated 19 April 2012 confirmed that the sachets containing white crystalline substance yielded positive for methamphetamine hydrochloride or shabu.

Version of the Defense

The defense presented four witnesses: Veluz Conlu y Canson, Helen Francisco y Poblacion, Ladisla Libo-on y Flores and appellant, Ceasar Conlu y Benetua.

In his Brief, appellant summarized the testimonies of his witnesses, as follows:[6]

Veluz Conlu (Veluz) testified that on 18 April 2012 he was at his house located in Villa Hergon, Brgy. Rizal cleaning his feet when all of a sudden, two (2) armed men in civilian clothes arrested his son, appellant Conlu, who was at the time taking gravel from the bakery. Veluz claimed that he does not know these persons. The two persons introduced themselves as police officers. Veluz told the police officers not to search the body of the appellant and requested that it be the Barangay Captain who should conduct the search.

Appellant was brought outside their house and sat on a bench until the Barangay Captain and two Barangay Kagawad arrived. Upon instructions of the police officers, Kagawad Rojo searched the body of the appellant by pulling all the six (6) pockets upside down. The neighbors who witnessed the search applauded when the search was completed as nothing was recovered from appellant. After the search, a commotion started as one person was

carrying a knife. Thereafter, the police officers told the appellant to go with them to the police station.

Helen Francisco (Helen) testified that on 18 April 2012 at around 9:00 o'clock in the morning she was at home, which was located beside the house of appellant's father in Villa Hergon, Silay City. While she was sweeping in the yard of her house, she noticed several persons running towards the house of Veluz. As she was curious, she followed and proceeded to the house of Veluz until she saw that appellant was being forcibly handcuffed. As a concerned citizen, she immediately called for the assistance of the Punong Barangay. Thereafter, Barangay Captain Palermo and Kagawad Rojo arrived at the place of the incident where the body search was made by Kagawad Rojo. The crowd cheered and applauded as nothing was recovered from appellant.

Right after the body search was conducted, a commotion took place but was later on pacified and appellant was made to board a police car to be brought to the police station. Helen asked the police officers why appellant would be brought to the police station considering that no items were recovered from him. The police officers replied that appellant would be investigated in the police station.

Ladislá Libo-on (Ladislá) averred that on 18 April 2012, she was outside her house in Villa Hergon, Brgy. Rizal doing laundry when she saw five to six police officers entering the house of appellant's father. Upon gaining entrance, the police officers apprehended appellant who was at that time was spading the sand. Ladislá stated that the police officers were forcibly arresting the appellant, while the latter begged the apprehending team not to harm him as he would not resist. While outside the house, the family of appellant requested that only the barangay officials would conduct the body search and not the police officers.

The people surrounding the place of arrest applauded as nothing was recovered from appellant when Kagawad Rojo made the body search. Appellant was brought to the police station with his wife, Barangay Captain, and two Barangay Kagawad.

Appellant averred that on 18 April 2012 at around 9:00 o'clock in the morning, he was inside the compound of the house of his father in Villa Hergon, Silay City when suddenly two armed persons barged into the compound and handcuffed him. The apprehending team forced appellant to go outside the compound and made him sit on a long bench. Thereafter, they waited for the barangay officials who would conduct the search as appellant's father insisted that it be the barangay officials who should make the body search and not the police officers. Subsequently, a body search was conducted by Kagawad Rojo who recovered nothing when the former inspected the six pockets of the short pants which appellant was wearing.

Appellant was brought later on to the police station despite the fact that no items were recovered from him. It was PO2 Bernil who continued the search inside the office of the police station with Barangay Captain Palermo, Kagawad Rojo, PO2 Libo-on, and PO2 Bernil. Appellant's family was not allowed to enter the office where the search was made. PO2 Bernil and appellant were positioned with their backs turned against the two barangay officials when the search was made. Surprisingly, a piece of cigarette paper and aluminum foil fell down to the ground. When opened, the cigarette paper contained eight small plastic sachets.

The RTC Decision

In Criminal Case No. 8616-69, for violation of Section 5, Article II of RA 9165, the RTC held that the prosecution "more than amply complied"[7] with the requisites for a successful buy-bust operation concerning illegal drugs. The RTC stated that "the buy-bust operation on accused x x x was not a random police operation. It was well-planned and duly coordinated with the Philippine Drug Enforcement Agency (PDEA). The material and focal incidents in the conduct of said operation were well-documented and clearly laid by the prosecution."[8]

The RTC rejected appellant's defenses of denial and alibi. The RTC viewed with skepticism the testimony of

appellant's father, given his close relationship to appellant. The other defense witnesses, meanwhile, had no knowledge as to where the appellant was and what appellant was doing immediately prior to his arrest.[9] The RTC held that bare denials cannot prevail over the positive testimonies of the police officers who conducted the buy-bust operation, absent any showing of improper motive to testify falsely against appellant.[10]

In Criminal Case No. 8615-69, for violation of Section 11, Article II of RA 9165, the RTC found that the prosecution failed to prove, by sufficient and conclusive evidence, that the items recovered from appellant in the police station were in fact in the possession of the appellant at the time of his arrest and were recovered from his possession after a search was done on his body. Therefore, the RTC acquitted appellant.

The dispositive portion of the RTC's decision reads:

WHEREFORE, PREMISES CONSIDERED:

In Criminal Case No. 8615-69, this Court finds accused, CEASAR CONLU Y BENETUA, ALIAS "PALI", NOT GUILTY of "Violation of Section 11 of Article II of Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002), as the Prosecution had not proven his guilt beyond any reasonable doubt.

In Criminal Case No. 8616-69, this Court finds accused, CEASAR CONLU Y BENETUA, ALIAS "PALI", GUILTY of "Violation of Section 5, Article II of Republic Act No. 9165" (The Comprehensive Dangerous Drugs Act of 2002), as his guilt had been proven by the prosecution beyond any reasonable doubt.

Accordingly, this Court sentences accused, CEASAR CONLU Y BENETUA, ALIAS "PALI", to suffer the penalty of Life Imprisonment, the same to be served by him at the National Penitentiary, Muntinlupa City, Rizal.

Accused, Ceasar Conlu y Benetua, alias "Pali", is further, ordered to pay a fine of P500,000.00.

In the service of the sentence imposed on accused, Ceasar Conlu y Benetua, alias "Pali", his period of detention pending trial of this case shall be credited in his favor.

Accused, Ceasar Conlu y Benetua, alias "Pali", is, in the meantime, remanded to the custody of the Jail Warden of the Bureau of Jail Management and Penology (BJMP), Silay City, Negros Occidental, pending his transfer to the National Bilibid Prisons, where he shall serve the sentence imposed on him by this Court.

The one (1) small heat-sealed transparent plastic sachet containing white crystalline substances in it of methamphetamine hydrochloride ("Shabu") subject of the buy-bust operation on the accused (Exhibit "1-1", prosecution) and the eight (8) small heat-sealed plastic sachets, likewise, containing methamphetamine hydrochloride ("Shabu") on them (Exhibits "1-2" to "1-9", prosecution), are ordered remitted to the Philippine Drug Enforcement Agency (PDEA), Negros Occidental Police Office, Camp Alfredo Montelibano, Bacolod City, for proper disposition.

NO COSTS.

SO ORDERED.[11]

The Court of Appeals' Ruling

In affirming the RTC's decision, the Court of Appeals found all the requirements for the prosecution of illegal sale of dangerous drugs have been positively and clearly established through the credible testimonies of the arresting officers.

According to the Court of Appeals, the "testimony of PO2 Libo-on, coupled by the execution of the poseur buyer of the pre-arranged signal to show consummation of the sale and the delivery by accused-appellant of the shabu to the poseur buyer and subsequently from the poseur buyer to PO2 Bernil, glaringly show that accused-appellant is

guilty as charged." [12]

The Court of Appeals found that the non-presentation of the poseur-buyer did not weaken the evidence for the prosecution. It held that "the testimonies of the police officers sufficiently established that the appellant is guilty of selling a dangerous drug. Their referral to the shabu handed by the appellant to the poseur buyer as something, merely indicates that at the time of the sale, they could only presume that the specimen sold by the appellant was shabu since they were conducting a buy bust operation. They still had to submit the specimen to the crime laboratory for testing." [13]

The dispositive portion of the Court of Appeals' decision reads:

IN LIGHT OF ALL THE FOREGOING, the Court hereby AFFIRMS in toto the assailed Decision dated October 14, 2013, of the Regional Trial Court, Branch 69, Silay City, in Criminal Case No. 8616-69.

SO ORDERED. [14]

Hence, this appeal.

The Court's Ruling

We acquit for failure of the prosecution to prove the illegal sale of the dangerous drug beyond reasonable doubt and failure of the prosecution to prove the unbroken chain of custody of the dangerous drug.

For an accused to be convicted for illegal sale of dangerous drugs, the following elements must concur: (1) that the transaction or sale took place between the accused and the poseur-buyer; and (2) that the dangerous drug subject of the transaction or sale is presented in court as evidence of the corpus delicti. [15]

In this case, there is serious doubt that the sale of the 0.01 gram of methamphetamine hydrochloride or shabu between appellant and the poseur-buyer ever took place. The poseur-buyer, whose testimony would have clearly established that the illegal transaction occurred, was not presented before the court. While the prosecution argues that the non-presentation of the poseur-buyer was not fatal to its case because there were eyewitnesses, we deem otherwise. The ten or seven meter distance between the police officers waiting for the pre-arranged signal from the poseur-buyer and the appellant made it difficult for the supposed eyewitnesses to see (and hear) what exactly was happening between appellant and the poseur-buyer. This is clear from PO2 Libo-on's testimony, to wit:

Q.

Where was your position with the poseur buyer called you to proceed?

A.

At the Matagoy area.

Q.

Around how many meteres were you from the target place?

A.

Fifty (50) meters.

Q.

What happened when the poseur buyer called you up and told you to get ready, what did you do?

A.

We go near the subject person and we positioned ourselves, more or less ten (10) meters.

Q.

Where was the poseur buyer at that time when you were ten (10) meters away from the accused?

A.

The poseur buyer was slowly approaching the subject person.

Q.

You were how many meters away when he was approaching the accused?

A.

We were more or less seven (7) meters from our target position.

Q.

After that, what happened?

A.

We saw the suspect and/or target person and he was being approached by our poseur buyer.

Q.

Did you clearly see them while they were transacting?

A.

Yes, Ma'am, we saw the subject person and the poseur buyer.

Q.

Since the subject person transacting [sic] your poseur buyer he gave the signal?

A.

Yes, Ma'am.

Q.

What did you see while they were transacting [sic] each other?

A.

As pre-arranged signal from our poseur buyer he exchanged for the marked money and handed to the suspect.

Q.

So what did the suspect do when the marked money was handed to him by the poseur buyer?

A.

The suspect took the marked money, then put it inside his right front pocket and took something from his right side because he was wearing a cargo shorts at that time and that we believed that it was a Shabu [sic] and gave it to our poseur buyer.

x x x [16] (Emphasis supplied)

While PO2 Libo-on testified that he saw appellant and the poseur-buyer "transacting" and that appellant "took something from his right side," he failed to describe clearly what he actually saw. PO2 Libo-on merely stated that he "believed that [the something] was shabu," without giving any description of the "something." In other words, PO2 Libo-on's testimony hardly qualifies as an eyewitness account of what kind of "transaction" actually transpired between appellant and the poseur-buyer. Specifically, PO2 Libo-on's testimony did not clearly establish that he saw and heard that appellant was selling shabu to the poseur-buyer, and the latter was buying shabu from appellant.

While PO2 Bernil testified, on direct-examination, that "the subject person (appellant) gave the suspected shabu to the poseur buyer"[17] after the poseur-buyer gave the money to the appellant, and on cross-examination, that he "saw the actual exchange between the poseur buyer and the suspect,"[18] there was nothing in his testimony describing what exactly he saw. In fact, there was no description of the appearance or condition of the "suspected shabu," which was handed to the poseur-buyer. This is precisely because PO2 Bernil and PO2 Libo-on were positioned approximately ten meters away from the appellant and the poseur-buyer.

In *Sindac v. People*, [19] the Court, in acquitting the accused, took into account the distance between the police officers and the site of the alleged drug transaction. The Court invalidated the in flagrante delicto arrest and warrantless search on the ground that no criminal overt act could be attributed to the accused as to result in suspicion in the mind of the arresting officers, to wit:

Considering that PO3 Penamora was at a considerable distance away from the alleged criminal transaction (five [5] to ten [10] meters), not to mention the atomity of the object thereof (0.04 gram of white crystalline substance contained in a plastic sachet), the Court finds it highly doubtful that said arresting officer was able to reasonably ascertain that any criminal activity was afoot so as to prompt him to conduct a lawful in flagrante delicto arrest and, thereupon, a warrantless search. These similar circumstances were availing in the cases of *Comerciante v. People* and *People v. Villareal* where the Court likewise invalidated the in flagrante delicto arrest and ensuing warrantless search. In this relation, it should also be pointed out that no criminal overt act could be properly attributed to *Sindac* so as to rouse any reasonable suspicion in the mind of either PO3 Peñamora or PO1 Asis that *Sindac* had just committed, was committing, or was about to commit a crime. *Sindac*'s actuations of talking to and later on, receiving an unidentified object from Canon, without more, should not be considered as ongoing criminal activity that would render proper an in flagrante delicto arrest under Section 5(a), Rule 113 of the Revised Rules of Criminal Procedure.[20]

In *People v. Guzon*, [21] the Court found that the prosecution failed to prove that the illegal sale actually transpired, given the distance between the police officer and the poseur-buyer. The Court held:

In addition to the foregoing, the Court finds merit in Guzon's argument that the non-presentation of the poseur-buyer to the witness stand was fatal to the prosecution's cause. We emphasize that in a prosecution for illegal sale of dangerous drugs, the prosecution must convincingly prove that the transaction or sale actually transpired. In the instant case, the poseur-buyer in the buy-bust operation, a civilian, was the witness competent to prove such fact, given the testimony of PO2 Tuzon that at time the supposed sale happened, he and PO3 Manuel were positioned about 20 meters away from Guzon and the poseur-buyer. Although PO2 Tuzon testified during the trial on the supposed sale, such information he could offer was based only on conjecture, as may be derived from the supposed actions of Guzon and the poseur-buyer, or at most, hearsay, being information that was merely relayed to him by the alleged poseur-buyer. Given the 20-meter distance, it was unlikely for PO2 Tuzon to have heard the conversations between the alleged buyer and seller. True enough, his testimony provided that he and PO3 Manuel merely relied on an agreed signal, i.e., the poseur-buyer's removal of his cap, to indicate that the sale had been consummated. x x x.[22]

Moreover, the prosecution's failure to present the poseur-buyer proved fatal to its case. In *People v. Andaya*,^[23] the Court reversed the Court of Appeals' conviction of the accused since the prosecution failed to prove the illegal sale of the dangerous drug beyond reasonable doubt. There, the prosecution did not present the poseur-buyer to describe how exactly the transaction between him and the accused had taken place. The Court held:

Proof of the transaction must be credible and complete. In every criminal prosecution, it is the State, and no other, that bears the burden of proving the illegal sale of the dangerous drug beyond reasonable doubt. This responsibility imposed on the State accords with the presumption of innocence in favor of the accused, who has no duty to prove his innocence until and unless the presumption of innocence in his favor has been overcome by sufficient and competent evidence.

Here, the confidential informant was not a police officer. He was designated to be the poseur buyer himself. It is notable that the members of the buy-bust team arrested Andaya on the basis of the pre-arranged signal from the poseur buyer. The pre-arranged signal signified to the members of the buy-bust team that the transaction had been consummated between the poseur buyer and Andaya. However, the State did not present the confidential informant/poseur buyer during the trial to describe how exactly the transaction between him and Andaya had taken place. There would have been no issue against that, except that none of the members of the buy-bust team had directly witnessed the transaction, if any, between Andaya and the poseur buyer due to their being positioned at a distance from the poseur buyer and Andaya at the moment of the supposed transaction.[24] (Emphasis supplied)

It must also be noted that, as appellant maintains, the buy-bust item was only 0.01 gram in weight which is minuscule in amount for PO2 Lib-on and PO2 Bernil to clearly see the alleged illegal transaction that took place.

In *People v. Casacop*,^[25] the Court held that the poseur-buyer should have been presented as a witness considering the minuscule amount of the buy-bust item, thus:

The transaction was between accused-appellant and the poseur-buyer, while PO1 Bautista watched the transaction a few meters away.

His statement that he saw "accused[-appellant] hand over something" creates reasonable doubt whether the item given by the poseur-buyer to PO1 Bautista is the same "something" that accused-appellant allegedly gave the poseur-buyer.

x x x x

Non-presentation of the poseur-buyer also defeats the case of the plaintiff-appellee. The testimony of the poseur-buyer is not "merely corroborative of the apprehending officers-eyewitnesses' testimonies[.]" as plaintiff-appellee alleges. The poseur-buyer had personal knowledge of the transaction since he conducted the actual transaction. PO1 Bautista was merely an observer from several meters away. Further, the amount

involved is so small that the reason for not presenting the poseur-buyer does not square with such a minuscule amount.[26] (Emphasis supplied)

Furthermore, there is serious doubt that the chain of custody of the dangerous drug, from the time it was allegedly recovered from appellant up to the time it was presented in court, was unbroken. PO2 Libo-on's testimony does not clearly state that he saw the poseur-buyer giving the buy-bust item to PO2 Bernil and PO2 Libo-on seems uncertain whether he had custody of the buy-bust item from the time it was allegedly handed by the poseur-buyer to PO2 Bernil, to wit:

Q.

Where did you recover the mark [sic] money?

A.

From his right front pocket.

Q.

Then what happened after you recovered the marked money from his right front pocket?

A.

After the recovery, I show [sic] him the marked money but then he was struggling and we requested for the barangay officials to be the one to search him.

Q.

How about the buy bust item which you were shown to the accused, what happened?

A.

The buy bust item was given by the poseur buyer to PO2 Bernil and PO2 Bernil handed to me.

Q.

What did you do with that buy bust item?

A.

I think I was the one who made custody of the buy bust item and I marked the buy bust item as "PALI-BBI" as buy bust item.[27] (Emphasis supplied)

PO2 Bernil testified that the "poseur buyer gave to PO Bernil the one small heat-sealed transparent plastic sachet of suspected shabu that was handed by the suspect to him in exchange to the marked money,"[28] after the recovery of the marked money by PO2 Libo-on from the appellant. However, there was no testimony of who had custody of the buy-bust item from the time PO2 Bernil handed it to PO2 Libo-on until the appellant and the buy-bust item were brought to the police station.

In *People v. Ismael*,[29] the Court stressed that in cases of illegal sale of dangerous drugs, 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.

Section 21, Article II of RA 9165 pertinently states:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment-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;

x x x x

The Implementing Rules and Regulations further elaborate on the proper procedure to be observed in Section 21 (a) of RA 9165, thus:

(a) The apprehending office/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;

In *Mallillin v. People*,^[30] cited in *People v. Ismael*,^[31] the Court explained the chain of custody rule as follows:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. 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. (Emphasis supplied)

In this case, as stated, there was uncertainty whether the dangerous drug allegedly purchased by the poseur-buyer was actually handed over by the poseur-buyer to PO2 Bernil since PO2 Libo-on's testimony did not clearly establish that he saw the hand over. Thus, there is no testimony on the precise moment the dangerous drug was allegedly turned over to PO2 Bernil. Accordingly, the unbroken chain of custody of the dangerous drug, which is required in the successful prosecution of illegal drug cases, was not established.

WHEREFORE, we GRANT the appeal. We ACQUIT appellant Cesar Conlu y Benetua for violation of Section 5, Article II of Republic Act No. 9165 for failure of the prosecution to prove his guilt beyond reasonable doubt

and ORDER his immediate release from confinement at the New Bilibid Prison in Muntinlupa City.

We DIRECT the Director of the Bureau of Corrections to implement the immediate release of Ceasar Conlu y Benetua, unless he is confined for any other lawful cause; and to report his compliance within ten days from receipt of this Decision.

SO ORDERED.

Perlas-Bernabe, A. Reyes, Jr., and J. Reyes, Jr.,[*] JJ., concur.
Caguioa, J., on leave.

[*] Designated additional member per Special Order No. 2587 dated 28 August 2018.

[1] Rollo, pp. 5-19. Penned by Associate Justice Pamela Ann Abella Maxino, with Associate Justices Jhosep Y. Lopez and Marie Christine Azcarraga-Jacob concurring.

[2] CA rollo, pp. 47-63. Penned by Presiding Judge Felipe G. Banzon.

[3] Referred to as "Cesar Conlu y Benetua" in some parts of the records.

[4] Records, p. 1.

[5] CA rollo, pp. 79-81.

[6] Id. at 37-38.

[7] Id. at 57.

[8] Id. at 58.

[9] Id. at 57.

[10] Id. at 58.

[11] Records, pp. 172-173.

[12] Rollo, p. 16.

[13] Id. at 17.

[14] Id. at 18.

[15] *People v. Andaya*, 745 Phil. 237, 246 (2014).

[16] TSN, 17 January 2013, pp. 23-24.

[17] TSN, 18 October 2012, p. 19.

[18] TSN, 18 October 2012, p. 24.

[19] 794 Phil. 421 (2016).

[20] Id. at 433.

[21] 719 Phil. 441 (2013).

[22] Id. at 460.

[23] Supra note 15.

[24] Supra note 15, at 247.

[25] 755 Phil. 265 (2015).

[26] Id. at 279, 283.

[27] TSN, 17 January 2013, p. 26.

[28] TSN, 18 October 2012, p. 19.

[29] G.R. No. 208093, 20 February 2017, 818 SCRA 122.

[30] 576 Phil. 576, 587 (2008).

[31] Supra note 29.

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