

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. ALGLEN REYES Y PAULINA, ACCUSED-APPELLANT.*G.R. No. 225736. October 15, 2018*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-225736/>**CAGUIOA, J:**

Before this Court is an ordinary appeal[1] filed by the accused-appellant Alglen Reyes y Paulina (Reyes) assailing the Decision[2] dated September 9, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05890, which affirmed the Decision[3] dated November 29, 2012 of the Regional Trial Court of Lingayen, Pangasinan, Branch 39 (RTC) in Criminal Case No. L-9217, finding Reyes guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,[4] otherwise known as "The Comprehensive Dangerous Drugs Act of 2002," as amended.

The Facts

An Information was filed against Reyes in this case, the accusatory portion of which reads as follows:

That on or about 12:15 in the early dawn of July 5, 2011 in Brgy. Malindong, Binmaley, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully and unlawfully sell Methamphetamine Hydrochloride or "shabu", a dangerous drug, without any authority to sell the same.

Contrary to Section 5, Article II, of RA 9165.[5]

The prosecution's version, as summarized by the CA, is as follows:

On the basis of an informant's tip, Police Superintendent/Chief of Police Frankie C. Candelario held a meeting on July 4, 2011 with the intelligence operatives of the Philippine National Police (PNP) Binmaley, Pangasinan to plan a buy-bust operation against the accused. Candelario formed a team with Police Inspector Fernando Jelcano as team leader, PO3 Vaquilar as poseur-buyer, and PO2 Solomon and PO1 Tomagos as back-ups. Inspector Jelcano coordinated with the Philippine Drug Enforcement Agency (PDEA). Candelario gave a P500.00 bill to Vaquilar for the operation which the latter marked with his initials "JBV." After recording the operation in the police blotter, the team members, clad in civilian clothes, set out with the informant for the target area at Barangay Malindong, Binmaley, more than a kilometer away. They left the police station at 12:15 AM of July 5, 2011 on board two motorcycles and a Honda Civic car. On reaching the target place, they waited for the accused to arrive. The informant sat inside the car as PO2 Solomon positioned himself behind a waiting shed a few meters away. There being a street light and because he had previously met the accused in a failed drug deal, Vaquilar was able to recognize the accused when he showed up at 1AM. Vaquilar approached the accused, saying: "This is the money, so give me the thing that I will buy." Accused handed to Vaquilar one (1) small plastic sachet containing shabu in exchange for the marked P500.00 bill. Thereupon, Vaquilar introduced himself as a police officer, arrested the accused and apprised him of his constitutional rights. Vaquilar raised his right thumb as a signal to his companions that the transaction had been completed. The back-up team approached the accused and introduced themselves to him as police officers. Vaquilar frisked the accused and recovered from his right pocket three (3) plastic sachets containing suspected shabu. Other items confiscated were the marked P500.00 bill, five P100.00 bills, one P50.00 bill, two P20.00 bills, one P10.00

coin, a key chain with two keys, a lighter, a Nokia cellular phone, and a motorcycle. Vaquilar inscribed his initials "JBV" on the four (4) sachets containing suspected shabu at the place of arrest and immediately after he seized them from accused. He also prepared a Confiscation Receipt. Thereafter, the officers brought the accused to the police station and turned him over, together with the seized items, to the investigator on duty, SPO4 Guillermo Gutierrez. Candelario prepared a request for laboratory examination of the seized specimens and drug test on the person of the accused. The request and the specimens were delivered by Gutierrez to the PNP Crime Laboratory in Urdaneta City on the same day.

Forensic Chemist Roderos testified that she personally received the request for laboratory examination and the specimens from SPO4 Gutierrez. She testified that the items she presented in court are the same items delivered to her by Gutierrez as shown by the markings that she put on each plastic sachet and the markings made by the requesting party. Testifying on her Chemistry Report, Roderas stated that all the specimens were positive for methamphetamine hydrochloride, a dangerous drug.[6]

On the other hand, the version of the defense, similarly summarized by the CA, is as follows:

Accused testified that on July 4, 2011, at around 11 PM to 12 midnight, he was at the Centrum gas station in Malindong to refuel his motorcycle. The gas station was lighted and there were gasoline boys in the area. He had to gas up as he had to go to Lingayen to buy medicine for his grandmother who was having an asthma attack. A gasoline boy was about to fill his gas tank when four men aboard two motorcycles arrived and immediately handcuffed him. The four men were in civilian clothes and donned helmets. They searched his body but found nothing illegal from him. He remained silent because he was scared and the men quickly boarded him on a motorcycle without telling him of any charges against him. When he was already on the motorcycle, the men introduced themselves as police officers and brought him to the Municipal Hall of Binmaley. At the Municipal Hall, the men removed their helmets and it was then that he saw their faces. They took his P1,000.00 bill from his pocket and locked him up. The next day, he was told that something illegal was found from him but he was not shown anything.

Lina Reyes testified that on July 4, 2011, at 10 PM she asked the accused, her adopted grandson, to buy ventolin tablet because she was having an asthma attack. She gave him P1,000.00. She later learned that accused had been arrested when her husband, Abe, told her about it the next morning. Reyes testified that she was not aware as to where the accused actually went after she asked him to buy medicine.[7]

Ruling of the RTC

After trial on the merits, in its Decision dated November 29, 2012, the RTC convicted Reyes of the crime charged. The dispositive portion of the said Decision reads:

WHEREFORE, premises considered, the Court finds accused ALGLEN REYES GUILTY beyond reasonable doubt for Violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and hereby sentences him to LIFE IMPRISONMENT, and to pay a fine of Five Hundred Thousand Pesos (PhP500,000.00).

The four heat-sealed transparent plastic sachets of shabu are hereby confiscated in favor of the government to be turned over to the Philippine Drug Enforcement Agency for proper disposition.

The motorcycle and the rest of the items confiscated from the accused must be returned to him.

SO ORDERED.[8]

The RTC ruled that the prosecution proved all the essential elements of the crimes charged.[9] It held that the prosecution witnesses gave an unequivocal account of the sale, thus proving that the transaction took place. It further traced the chain of custody of the seized items from the apprehending officer, to the officer who conducted the inventory, to the forensic chemist who conducted the examination and subsequently transmitted the said items

to the court. The RTC thus concluded that the prosecution was able to establish the identity of the corpus delicti, thereby proving Reyes' guilt beyond reasonable doubt.[10] The RTC further held that Reyes' defense of alibi and denial could not overcome the presumption of regularity in the performance of duties afforded the police officers. The RTC therefore convicted Reyes of the crime.

Aggrieved, Reyes appealed to the CA.

Ruling of the CA

In the questioned Decision dated September 9, 2015 the CA affirmed the RTC's conviction of Reyes, holding that the prosecution was able to prove the elements of the crimes charged, namely: (1) the identity of the buyer, as well as the seller, the object, and the consideration of the sale; (2) the delivery of the thing sold and the payment therefor.[11] The CA gave credence to the testimonies of the prosecution witnesses as they are police officers presumed to have performed their duties in a regular manner.

As regards compliance with Section 21, Article II of the Implementing Rules and Regulations (IRR) of RA 9165, the CA held that "non-compliance with Section 21 does not necessarily render the seizure and custody of the items void and invalid, provided that the prosecution recognizes the procedural lapses and thereafter (1) cites justifiable grounds for such non-compliance and (2) establishes that the integrity and evidentiary value of the seized items were nonetheless properly preserved." [12] It then held that, in this case, the evidence of the prosecution established an unbroken chain of custody wherein the integrity and evidentiary value of the specimens were preserved.

Hence, the instant appeal.

Issue

For resolution of this Court is the issue of whether the RTC and the CA erred in convicting Reyes.

The Court's Ruling

The appeal is meritorious.

At the outset, it bears pointing out that the Information filed against Reyes in this case was defective, for which reason alone Reyes should be acquitted. The importance of sufficiency of the Information cannot be more emphasized; it is an essential component of the right to due process in criminal proceedings as the accused possesses the right to be sufficiently informed of the cause of the accusation against him. This is implemented through Rule 110, Sections 8 and 9 of the Rules of Court, which provide:

SEC. 8. Designation of the offense.—The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

SEC. 9. Cause of the accusation.— The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment. (Emphasis and underscoring supplied)

It is fundamental that every element of which the offense is composed must be alleged in the Information. In other words, no Information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged.[13] The test in determining whether the information validly charges an offense is whether the

material facts alleged in the complaint or information will establish the essential elements of the offense charged as defined in the law.[14] In this examination, matters aliunde are not considered.[15] The purpose of the law in requiring this is to enable the accused to suitably prepare his defense, as he is presumed to have no independent knowledge of the facts that constitute the offense.[16]

In the present case, the Information filed against Reyes has the following accusatory portion:

That on or about 12:15 in the early dawn of July 5, 2011 in Brgy. Malindong, Binmaley, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, wilfully and unlawfully sell Methamphetamine Hydrochloride or "shabu", a dangerous drug, without any authority to sell the same.

Contrary to Section 5, Article II, of RA 9165.[17] (Emphasis and underscoring supplied)

Reyes was thus supposedly charged with the crime of illegal sale of dangerous drugs, defined and penalized under Section 5, Article II of RA 9165 – the prosecution of which requires that the following elements be proven: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor. [18]

The Information filed against Reyes, however, makes a conclusion of law – that he "did x x x sell" dangerous drugs – without specifically stating 1) the identity of the buyer; 2) the amount of dangerous drugs supposedly traded by Reyes; and 3) the consideration for the sale.

In *People v. Posada*,[19] the Information filed therein erroneously lumped together the objects of illegal sale and illegal possession of dangerous drugs. In ruling that the said Information was defective, the Court in the said case held that:

Indeed, it must be pointed out that the prosecution filed a defective Information. An Information is fatally defective when it is clear that it does not really charge an offense or when an essential element of the crime has not been sufficiently alleged. In the instant case, while the prosecution was able to allege the identity of the buyer and the seller, it failed to particularly allege or identify in the Information the subject matter of the sale or the corpus delicti. We must remember that one of the essential elements to convict a person of sale of prohibited drugs is to identify with certainty the corpus delicti. Here, the prosecution took the liberty to lump together two sets of corpora delicti when it should have separated the two in two different informations. To allow the prosecution to do this is to deprive the accused-appellants of their right to be informed, not only of the nature of the offense being charged, but of the essential element of the offense charged; and in this case, the very corpus delicti of the crime.[20] (Emphasis and underscoring supplied)

In the case at bar, the Information filed against Reyes failed to sufficiently identify therein all the components of the first element of the crime of sale of dangerous drugs, namely: the identity of the buyer, the object, and the consideration. Much similar to the case of *Posada*, therefore, the prosecution in this case likewise deprived Reyes of his right to be informed of the offense charged against him. To repeat, for this reason alone, Reyes should already be acquitted.

Even assuming, however, for the sake of argument, that the Information in this case sufficiently informed Reyes of the charge against him, Reyes would still be acquitted on the ground that the prosecution failed to prove his guilt beyond reasonable doubt.

In cases involving dangerous drugs, the State bears not only the burden of proving these elements, but also of proving the corpus delicti or the body of the crime. In drug cases, the dangerous drug itself is the very corpus delicti of the violation of the law.[21] While it is true that a buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors,[22] the law nevertheless also

requires strict compliance with procedures laid down by it to ensure that rights are safeguarded.

In all drugs cases, therefore, compliance with the chain of custody rule is crucial in any prosecution that follows such operation. Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.[23] The rule is imperative, as it is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that required to make a finding of guilt.[24]

In this connection, Section 21, Article II of RA 9165,[25] the applicable law at the time of the commission of the alleged crime, lays down the procedure that police operatives must follow to maintain the integrity of the confiscated drugs used as evidence. The provision requires that: (1) the seized items be inventoried and photographed immediately after seizure or confiscation; and (2) the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy thereof.

This must be so because with "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 of or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great." [26]

Section 21 of RA 9165 further requires the apprehending team to conduct a physical inventory of the seized items and the photographing of the same immediately after seizure and confiscation. The said inventory must be done in the presence of the aforementioned required witness, all of whom shall be required to sign the copies of the inventory and be given a copy thereof.

The phrase "immediately after seizure and confiscation" means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. It is only when the same is not practicable that the IRR of RA 9165 allows the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team.[27] In this connection, this also means that the three required witnesses should already be physically present at the time of apprehension — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. Verily, a buy-bust team normally has enough time to gather and bring with them the said witnesses.

It is true that there are cases where the Court had ruled that the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 does not ipso facto render the seizure and custody over the items void and invalid. However, this is with the caveat, as the CA itself pointed out, that the prosecution still needs to satisfactorily prove that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.[28] The Court has repeatedly emphasized that the prosecution should explain the reasons behind the procedural lapses.[29]

In the present case, not one of the three required witnesses was present at the time of seizure and apprehension and even during the conduct of the inventory. As PO3 Jimmy Vaquilar (PO3 Vaquilar), part of the apprehending team, himself testified:

Q

Do you remember if there was any incident that requires you to carry on your duties and functions on July 5, 2011 at early dawn?

A

We conducted buy bust operation against the person of Alglen Reyes, sir.

Q

Prior to the conduct of buy bust operation, what was done in your office?

A

On July 4, we gathered information from the Informant that there is a transaction of illegal drugs and so we informed our Chief of Police about it, sir.

Q

So what did your Chief of Police do when you informed him of that information that you obtained from the Informant?

A

We called all the members of intel-operatives of PNP Binmaley to hold a briefing on the conduct of buy bust operation, sir.

x x x x

Q

In that briefing, who was delegated to be the poseur-buyer?

A

I was the one, sir.

Q

How many members of the PNP Binmaley were actually formed?

A

Four (4) members, sir.

Q

Were there other members of any government agency that were made as part of that buy bust operation?

A

No more, only the four of us, sir.

x x x x

Q

You said also that it was Police Officer Elcano who made the necessary coordination?

A

Yes, sir.

Q

Do you know if he actually coordinated with some government agencies?

A

Yes, he coordinated with PDEA at around 8:00 p.m., sir.

Q

How do you know that he actually coordinated with PDEA?

A

Because I was the one who dialed the number of PDEA when he called-up the said office, sir.

Q

Are there any other government agencies that you coordinated with?

A

No more, only PDEA, sir.

x x x x

Q

So after that, what happened next?

A

We immediately proceeded to the area to conduct the buy bust operation, sir.

Q

So when you said "we", you are referring to you and your other 3 companions?

A

Yes, sir.

x x x x

Q

So when you were able to go near him, what transpired at that moment?

A

We exchanged items, sir.

Q

What did you tell Alglen, when did he exchange something to you?

A

I told him, "This is the money, so give me the thing that I will buy."

Q

So what was that thing that you will buy?

A

One sachet of suspected shabu, sir.

Q

In return to that one sachet that you are referring to, what did you do?

A

When the item is already handed to me, I signalled my companions and informed him that I am a police officer.

Q

Where was the marked money at that time when Algen (sic) handed to you the one sachet of suspected shabu?

A

I already gave it to him, sir.

Q

So what happened next?

A

After I signalled to my companions, I told the accused that I am a police officer, sir.

Q

So what happened next after you informed Algen (sic) that you are a policeman?

A

After frisking his right pocket, we were able to recover another 3 sachets of shabu, sir.

Q

What happened next after that?

A

We apprised him of his right before bringing him to the police station, sir.

Q

If those sachets of shabu will be shown to you, will you be able to identify them?

A

Yes, sir.

Q

By the way, what did you do with these sachets of shabu right after they were confiscated from the accused?

A

I placed my markings on the sachets, sir.

Q

Where did you make the markings, Mr. Witness?

A

In the area, at barangay Malindong, sir.

Q

You are referring to the place where you arrested the accused?

A

Yes, sir.[30] (Emphasis and underscoring supplied)

The foregoing testimony was corroborated by the testimony of PO2 Loidan Solomon who was also part of the apprehending team.[31] None of the prosecution witnesses offered a version that would contradict the same. Neither did they try to offer an explanation as to why not one of the three required witnesses – a representative from the DOJ, a media representative, and an elective official – was present in the buy-bust operation conducted against Reyes. The prosecution did not also address the issue in their pleadings, and the RTC and the CA instead had to rely only on the presumption that police officers performed their functions in the regular manner to support Reyes' conviction.

It bears emphasis that the presence of the required witnesses at the time of the apprehension and inventory is mandatory, and that the law imposes the said requirement because their presence serves an essential purpose. In *People v. Tomawis*,[32] the Court elucidated on the purpose of the law in mandating the presence of the required witnesses as follows:

The presence of the witnesses from the DOJ, media, and from public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug. Using the language of the Court in *People v. Mendoza*,[33] without the insulating presence of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drugs, the evils of switching, "planting" or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the subject sachet that was evidence of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused.

The presence of the three witnesses must be secured not only during the inventory but more importantly at the time of the warrantless arrest. It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses would also controvert the usual defense of frame-up as the witnesses would be able testify that the buy-bust operation and inventory of the seized drugs were done in their presence in accordance with Section 21 of RA 9165.

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so — and "calling them in" to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.

To restate, the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs "immediately after seizure and confiscation." [34]

It is important to point out that the apprehending team in this case had more than ample time to comply with the requirements established by law. As PO3 Vaquilar himself testified, they even tried to coordinate with the Philippine Drug Enforcement Agency (PDEA) four hours before the operation was actually executed.[35] The officers, therefore, could have complied with the requirements of the law had they intended to. However, the apprehending officers in this case did not exert even the slightest of efforts to secure the attendance of any of the three required witnesses. Worse, neither the police officers nor the prosecution – during the trial – offered any

explanation for their deviation from the law.

It bears stressing that the prosecution has the burden of (1) proving their compliance with Section 21, RA 9165, and (2) providing a sufficient explanation in case of non-compliance. As the Court en banc unanimously held in the recent case of *People v. Lim*,^[36]

It must be alleged and proved that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape^[37]

In *People v. Umipang*,^[38] the Court dealt with the same issue where the police officers involved did not show any genuine effort to secure the attendance of the required witness before the buy-bust operation was executed. In the said case, the Court held:

Indeed, the absence of these representatives during the physical inventory and the marking of the seized items does not per se render the confiscated items inadmissible in evidence. However, we take note that, in this case, the SAID-SOTF did not even attempt to contact the barangay chairperson or any member of the barangay council. There is no indication that they contacted other elected public officials. Neither do the records show whether the police officers tried to get in touch with any DOJ representative. Nor does the SAID-SOTF adduce any justifiable reason for failing to do so — especially considering that it had sufficient time from the moment it received information about the activities of the accused until the time of his arrest.

Thus, we find that there was no genuine and sufficient effort on the part of the apprehending police officers to look for the said representatives pursuant to Section 21(1) of R.A. 9165. A sheer statement that representatives were unavailable — without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances — is to be regarded as a flimsy excuse. We stress that it is the prosecution who has the positive duty to establish that earnest efforts were employed in contacting the representatives enumerated under Section 21(1) of R.A. 9165, or that there was a justifiable ground for failing to do so.^[39] (Emphasis and underscoring supplied)

The Court emphasizes that while it is laudable that police officers exert earnest efforts in catching drug pushers, they must always do so within the bounds of the law.^[40] Without the insulating presence of the representative from the media and the DOJ, and any elected public official during the seizure and marking of the sachets of shabu, the evils of switching, "planting" or contamination of the evidence would again rear their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the sachets of shabu that were evidence herein of the corpus delicti. Thus, this failure adversely affected the trustworthiness of the incrimination of the accused. Indeed, the insulating presence of such witnesses would have preserved an unbroken chain of custody.^[41]

Concededly, Section 21 of the IRR of RA 9165 provides 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." For

this provision to be effective, however, the prosecution must first (1) recognize any lapse on the part of the police officers and (2) be able to justify the same.[42] Breaches of the procedure contained in Section 21 committed by the police officers, left unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt against the accused as the integrity and evidentiary value of the corpus delicti had been compromised.[43] As the Court explained in *People v. Reyes*:[44]

Under the last paragraph of Section 21(a), Article II of the IRR of R.A. No. 9165, a saving mechanism has been provided to ensure that not every case of non-compliance with the procedures for the preservation of the chain of custody will irretrievably prejudice the Prosecution's case against the accused. To warrant the application of this saving mechanism, however, the Prosecution must recognize the lapse or lapses, and justify or explain them. Such justification or explanation would be the basis for applying the saving mechanism. Yet, the Prosecution did not concede such lapses, and did not even tender any token justification or explanation for them. The failure to justify or explain underscored the doubt and suspicion about the integrity of the evidence of the corpus delicti. With the chain of custody having been compromised, the accused deserves acquittal. x x x[45] (Emphasis supplied)

In sum, the prosecution failed to provide justifiable grounds for the apprehending team's deviation from the rules laid down in Section 21 of RA 9165. The integrity and evidentiary value of the corpus delicti has thus been compromised. In light of this, Reyes must perforce be acquitted.

WHEREFORE, in view of the foregoing, the appeal is hereby GRANTED. The Decision dated September 9, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 05890 is hereby REVERSED and SET ASIDE. Accordingly, accused-appellant Alglen Reyes y Paulina is ACQUITTED of the crime charged on the ground of reasonable doubt, and is ORDERED IMMEDIATELY RELEASED from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Decision be furnished the Superintendent of the New Bilibid Prison, Muntinlupa City, for immediate implementation. The said Director is ORDERED to REPORT to this Court within five (5) days from receipt of this Decision the action he has taken.

SO ORDERED.

Carpio (Chairperson), Perlas-Bernabe, A. Reyes, Jr., and J. Reyes, Jr.,[*] JJ., concur.

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

[1] See Notice of Appeal dated September 28, 2015, rollo, pp. 12-13.

[2] Rollo, pp. 2-11. Penned by Associate Justice Melchor Q.C. Sadang with Associate Justices Celia C. Librea-Leagogo and Amy Lazaro-Javier, concurring.

[3] CA rollo, pp. 33-41. Penned by Acting Presiding Judge Teodoro C. Fernandez.

[4] Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES" (2002).

[5] Rollo, pp. 2-3.

[6] Id. at 3-4.

[7] Id. at 4-5.

- [8] CA rollo, p. 40.
- [9] Id. at 37-38.
- [10] Id. at 38.
- [11] Rollo, p. 6.
- [12] Id. at 8, citing *People v. Casabuena*, 747 Phil. 358 (2014), among other cases.
- [13] *Dela Chica v. Sandiganbayan*, 462 Phil. 712, 719 (2003).
- [14] Id.
- [15] Id.
- [16] Id.
- [17] Rollo, pp. 2-3.
- [18] *People v. Opiana*, 750 Phil. 140, 147 (2015).
- [19] 684 Phil. 20 (2012).
- [20] Id. at 40.
- [21] *People v. Guzon*, 719 Phil. 441, 451 (2013).
- [22] *People v. Mantalaba*, 669 Phil. 461, 471 (2011).
- [23] *People v. Guzon*, supra note 21, citing *People v. Dumaplin*, 700 Phil. 737, 747 (2012).
- [24] Id., citing *People v. Remigio*, 700 Phil. 452, 464-465 (2012).
- [25] The said section reads 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 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[.]

- [26] *People v. Santos, Jr.*, 562 Phil. 458, 471 (2007), citing *People v. Tan*, 401 Phil. 259, 273 (2000).
- [27] IRR of RA 9165, Art. II, Sec. 21(a).
- [28] *People v. Ceralde*, G.R. No. 228894, August 7, 2017, 834 SCRA 613, 625.
- [29] *People v. Almorfe*, 631 Phil. 51, 60 (2010); *People v. Alvaro*, G.R. No. 225596, January 10, 2018, p. 7; *People v. Villanueva*, G.R. No. 231792, January 29, 2018, p. 7; *People v. Mamangon*, G.R. No. 229102, January 29, 2018, p. 7; *People v. Miranda*, G.R. No. 229671, January 31, 2018, p. 7; *People v. Dionisio*, G.R. No. 229512,

January 31, 2018, p. 9; *People v. Manansala*, G.R. No. 229092, February 21, 2018, p. 7; *People v. Ramos*, G.R. No. 233744, February 28, 2018, p. 9; *People v. Sagaunit*, G.R. No. 231050, February 28, 2018, p. 7; *People v. Lumaya*, G.R. No. 231983, March 7, 2018, p. 8; *People v. Año*, G.R. No. 230070, March 14, 2018, p. 6; *People v. Descalso*, G.R. No. 230065, March 14, 2018, p. 8; *People v. Dela Victoria*, G.R. No. 233325, April 16, 2018, p. 6.

[30] TSN, August 15, 2011, pp. 3-11.

[31] TSN, September 19, 2011, p. 7.

[32] G.R. No. 228890, April 18, 2018.

[33] 736 Phil. 749 (2014).

[34] *People v. Tomawis*, *supra* note 32, at 11-12.

[35] TSN, August 15, 2011, p. 6.

[36] G.R. No. 231989, September 4, 2018.

[37] *Id.* at 13, citing *People v. Sipin*, G.R. No. 224290, June 11, 2018, p. 17; emphasis in the original and underscoring supplied.

[38] 686 Phil. 1024 (2012).

[39] *Id.* at 1052-1053.

[40] *People v. Ramos*, 791 Phil. 162, 175 (2016).

[41] *People v. Mendoza*, *supra* note 33, at 764.

[42] *People v. Alagarme*, 754 Phil. 449, 461 (2015).

[43] See *People v. Sumili*, 753 Phil. 342 (2015).

[44] 797 Phil. 671 (2016).

[45] *Id.* at 690.

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