

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. JULIET RIVERA Y OTOM AND JAYSON LACDAN Y PARTO, ACCUSED, JULIET RIVERA Y OTOM, ACCUSED-APPELLANT.

G.R. No. 225786. November 14, 2018

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CAGUIOA, J:

This is an Appeal[1] under Section 13(c), Rule 124 of the Rules of Court from the Decision[2] dated October 22, 2015 of the Court of Appeals, Eleventh Division (CA) in CA-G.R. CR-HC. No. 06830, which affirmed the Consolidated Judgment[3] dated May 7, 2014 rendered by the Regional Trial Court, Branch 31, San Pedro City, Laguna (RTC) in Criminal Case No. 10-7311-SPL, which found herein accused-appellant Juliet Rivera y Otom (Rivera) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.

The Facts

An Information[4] was filed against Rivera for violating Section 5, Article II of RA 9165, the accusatory portion of which reads:

"That on or about the 3:00 o'clock in the afternoon of March 23[,] 2010, in the Barangay of Cuyab, Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any license or authority from law, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur-buyer, one (1) small plastic sachet containing 0.02 gram of methamphetamine hydrochloride, a dangerous drug, in consideration of the sum of two (2) marked One Hundred Peso bills, with serial numbers JN444376 and PB582377, respectively[.]"

CONTRARY TO LAW.[5]

When arraigned, Rivera pleaded not guilty to the offense charged.[6]

The case for illegal sale of dangerous drugs against Rivera was later on consolidated with Criminal Case No. 10-7312-SPL wherein her common-law husband, accused Jayson Lacdan y Parto (Lacdan), stood charged with illegal possession of dangerous drugs allegedly committed as follows:[7]

"That on or about 3:00 o'clock in the afternoon of March 23, 2010, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there wilfully, unlawfully and feloniously have in his possession, control and custody one (1) small heat-sealed transparent plastic sachet containing 0.01 gram of methamphetamine hydrochloride, a dangerous drug, in violation of the aforementioned law.

CONTRARY TO LAW."[8]

Version of the Prosecution

The version of the prosecution, as summarized by the Office of the Solicitor General (OSG), is as follows:

On March 23, 2010 at around 12 noon, the Intelligence Division of San Pedro Municipal Police Station received a report from a confidential informant that accused Jayson Lacdan was selling drugs. Police Inspector Antonio Gutierrez informed PO1 Sonny Xyrus De Leon, PO2 Edgardo Carandang, and PO1 Jifford Signap about the sale of illegal drugs at the house of accused Lacdan located on Vergara St., Pulong Kendi, Barangay Cuyab, San Pedro Laguna.

To confirm the information, PO2 Carandang, PO1 De Leon, PO1 Signap, and one other confidential informant went to the house of accused Lacdan and conducted a surveillance operation at around 2:30 in the afternoon. They saw several people, who looked like drug users, coming in and out of the house. The confidential informant also identified appellant Rivera. Thereafter, they went back to the station to report their findings.

On the same day, P/Insp. Gutierrez, the team leader, sent a pre-operation report and an authority to operate to the Philippine Drugs Enforcement Agency (PDEA) for the conduct of the buy-bust operation.

At around 3:00 o'clock in the afternoon, PO1 De Leon, together with the confidential informant who reported the illegal sale, went to the house of accused Lacdan. Meanwhile, the rest of the buy-bust team waited in strategic positions around seven (7) to eight (8) meters away from the house. Upon his arrival, PO1 De Leon was approached by appellant Rivera, whom he referred to as "Sunshine[.]"

PO1 De Leon asked the appellant if accused Lacdan alias "Itoy" was around because they wanted to buy shabu. Accused-appellant informed them that she would be the one to get it from accused Lacdan. Thereafter, she went back inside the house and returned, bringing with her a small plastic sachet containing the suspected shabu. PO1 De Leon handed her Php200.00 in payment of the shabu. After handing her the money, PO1 De Leon made a missed call to signal his team leader that the transaction had been consummated.

The back-up team, which included PO1 Signap and PO2 Carandang, arrived. Upon seeing them, accused-appellant ran inside the house to the bedroom where accused Lacdan was located. PO1 De Leon ran after her and arrested her inside the bedroom. Meanwhile, PO 1 Signap and PO2 Carandang entered the house and went upstairs, where they found accused Lacdan in his bedroom and arrested him. PO1 De Leon recovered the buy-bust money from accused-appellant while PO2 Carandang recovered one plastic sachet from accused Lacdan. Upon arrest, the two policemen read them their rights. PO1 De Leon subsequently marked the plastic sachet he possessed as "JR-B," while he marked the recovered plastic sachet from accused Lacdan as "JL-P[.]" Afterward, the accused and the accused-appellant were taken to the police station for investigation.

Upon reaching the police station, the seized items were turned over to P/Insp. Gutierrez to be photographed and inventoried. Mr. Nick Luares, a reporter from Laguna Expose, acted as a witness. Meanwhile, appellant and accused underwent an inquest investigation. The inquest was conducted by Atty. Joel C. Quidayan, the inquest prosecutor.

Thereafter, PO1 De Leon prepared a request for drug examination to the crime laboratory. On the same day at 11:55 in the evening, he, together with PO2 Seguerra, personally brought the two plastic sachets containing white crystalline substance to the crime laboratory for examination.

The seized items were examined by Chief Rodrigo of the Philippine National Police (PNP) Crime Laboratory at Camp Vicente Lim, Calamba, Laguna. Results of the laboratory examination show that the white crystalline substance inside the plastic sachets tested positive for methamphetamine hydrochloride.[9]

Version of the Defense

On the other hand, the defense's version, as summarized by the OSG, is as follows:

Rivera denied the charges against her. Allegedly, at around 12:00 noon of March 23, 2010, unknown men arrived and searched their house and frisked her. When they did not find anything, she was handcuffed and boarded on a white car. She found out that Lacdan was also in the car. Thereafter, they were brought to the

police station where one (1) of the police officers took two (2) plastic sachets from a drawer, placed them on the table, marked the plastic sachets, and took pictures of them. Then, PO1 De Leon demanded P50,000.00 from Rivera in exchange for her freedom. When she failed to comply, she was detained and charged.[10]

Ruling of the RTC

In the assailed Consolidated Judgment dated May 7, 2014, the RTC found Rivera guilty of the crime charged. It gave more weight and credence to the testimony of PO1 Sonny Xyrus De Leon (PO1 De Leon) who identified Rivera as the seller, detailed the exchange of the buy-bust money and dangerous drugs, and proved that the shabu seized from Rivera at the time of the buy-bust operation was the same specimen tested, introduced, and identified in court.[11]

However, the RTC acquitted Lacdan based on reasonable doubt on the identity and evidentiary value of the drugs allegedly confiscated from him.[12]

The dispositive portion of the decision reads:

WHEREFORE, the foregoing considered, judgment is hereby rendered as follows:

1. In Criminal Case No. 10-7311-SPL, accused Juliet Rivera y Otom is hereby found GUILTY beyond reasonable doubt of violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand (P500,000.00) Pesos without subsidiary imprisonment in case of insolvency.

The period of her preventive imprisonment should be given full credit.

2. In Criminal Case No. 10-7312-SPL, accused Jayson Lacdan y Parto is hereby ACQUITTED of violation of Section 11, Article II of Republic Act No. 9165 for failure of the prosecution to prove his guilt beyond reasonable doubt. He is hereby ordered released from detention unless he is being held for some other lawful cause or causes.

Let the two plastic sachets of shabu weighing 0.02 and 0.01 gram subject matter of these cases be immediately forwarded to the Philippine Drug Enforcement Agency for its disposition as provided by law. The P200.00 buy-bust money is further ordered forfeited in favour of the government and deposited to the National Treasury through the Office of the Clerk of Court.

SO ORDERED.[13]

Aggrieved, Rivera appealed to the CA.

Ruling of the CA

In the assailed Decision dated October 22, 2015, the CA affirmed Rivera's conviction. The dispositive portion of the decision reads:

WHEREFORE, the instant appeal is hereby DENIED. The May 7, 2014 Consolidated Judgment of the Regional Trial Court, Branch 31, San Pedro City, Laguna in Criminal Case No.10-7311-SPL is AFFIRMED in toto.

SO ORDERED.[14]

The CA gave credence to the positive testimony of PO1 De Leon because he remained consistent despite the grueling scrutiny of the trial court judge and the defense counsel.[15] It ruled that there is no gap in the chain of custody of the corpus delicti.[16] It further held that the integrity and evidentiary value of the seized items were preserved, hence the absence of the required representative from the Department of Justice (DOJ) would not

affect the admissibility and probative value of the prosecution's evidence.[17] Lastly, it ruled that the variance in the weight stated in the information and Chemistry Report[18] is inconsequential to exculpate Rivera from the offense charged considering that the prosecution had sufficiently proven the identity and integrity of the actual plastic sachet of shabu confiscated from her.[19]

Hence, the instant appeal.

Issue

Whether or not Rivera's guilt for violation of Section 5 of RA 9165 was proven beyond reasonable doubt.

The Court's Ruling

The appeal is meritorious.

After a review of the records, the Court resolves to acquit Rivera as the prosecution admittedly failed to prove that the buy-bust team complied with the mandatory requirements of Section 21 of RA 9165 which thus results in their failure to prove her guilt beyond reasonable doubt.

Rivera was charged with the crime of illegal sale of dangerous drugs, defined and penalized under Section 5, Article II of RA 9165. In order to convict a person charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution shall prove the following elements: (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.[20]

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 requisite 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; (2) that 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 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]

As stated, Section 21 of RA 9165 requires the apprehending team to conduct a physical inventory of the seized items and the photographing of the same immediately after seizure and confiscation and 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 Implementing Rules and Regulations (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 the conduct of the physical inventory of the seized items which, again, must be immediately done at the place of seizure and confiscation — 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 has 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, the buy-bust team committed several glaring procedural lapses in the conduct of the seizure, initial custody, and handling of the seized drug — which thus create reasonable doubt as to the identity and integrity of the drugs and consequently, reasonable doubt as to the guilt of the accused.

The three required witnesses were not present at the time of seizure, apprehension and inventory.

Here, none of the three required witnesses was present at the time of seizure and apprehension. In fact, Mr. Nick Luares, a reporter from Laguna Expose, was only called to witness the inventory and photographing of the seized items when the apprehending team was already at the police station. As PO1 De Leon, part of the apprehending team, testified:

Q.

Where were you when you placed the markings?

A.

At the place where we arrested her, sir.

Q.

At the office, what was the procedure did you apply (sic) when you arrived in your office?

A.

When we arrived at the police station, we blottered (sic) the incident, we prepared the certificate of inventory and we also took pictures in the presence of a representative from the media, sir.[30] (Emphasis supplied)

In the case at bar, the buy-bust team utterly failed to strictly comply with the abovementioned procedure laid out in Section 21 of RA 9165.

First, no photograph of the seized drug was taken at the place of seizure or at the police station where the inventory was conducted. Section 21 of RA 9165 plainly requires that the apprehending team should take photograph of the seized item immediately after seizure and confiscation.

Second, there was no compliance with the three-witness rule. Based on the narrations of PO 1 De Leon, not one of the witnesses required under Section 21 was present at the time the plastic sachet was allegedly seized from Rivera. They only called a representative from the media at the police station. They also did not give any justifiable reason for the absence of the three required witnesses during or immediately after the buy-bust operation for purposes of physical inventory and photograph of the seized item.

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*,^[31] 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 vs. Mendoza*,^[32] 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 No. 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 to 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."^[33]

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. By their own version of the facts, as previously narrated, they received the information from their confidential informant at 12:00 o'clock noon of March 23, 2010.^[34] They conducted the actual buy-bust operation at 3:00 o'clock of the same date.^[35] Prior to the buy-bust operation, they sent to the PDEA a pre-operation report, authority to operate and the coordination form.^[36] The officers, therefore, could have quite easily complied with the requirements of the law had they intended to. However, it is clear that the apprehending officers here did not even exert the slightest effort to secure the attendance of the required witnesses to be present at or near the place of apprehension. Worse, neither the police officers nor the prosecution — during the trial — offered any explanation for the deviation from the law.

The prosecution has the burden of (1) proving the police officers' 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*:^[37]

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.^[38]

In this case, none of the abovementioned reasons is present.

To be sure, 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 illegal 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 buy-bust operation; such that they are required to be at or near the intended place of the operation so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs "immediately after seizure and confiscation."

The saving clause does not apply to this case.

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.^[39] 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.^[40] As the Court explained in *People v. Reyes*:^[41]

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^[42] (Emphasis supplied)

Here, none of the requirements for the saving clause to be triggered is present:

First, the prosecution did not even concede that there were lapses in the conduct of the buy-bust operation. Also, no explanation was offered as to the absence of the three witnesses at the place and time of seizure, or as to the failure to photograph the confiscated items immediately after seizure or during inventory in the presence of the insulating witnesses. The requirements under Section 21 are not unknown to the buy-bust team who are presumed to be knowledgeable of the law demanding the preservation of the links in the chain of custody.[43] They are dutybound to fully comply with the requirements thereof, and if their compliance is not full, they should at least have the readiness to explain the reason for the step or steps omitted from such compliance.[44]

Second, the prosecution failed to provide justifiable grounds for the apprehending team's deviation from the rules laid down in Section 21 of RA 9165. To reiterate, they did not even explain why the three required witnesses were not present during the buy-bust operation.

The integrity and evidentiary value of the corpus delicti have thus been compromised. In light of this, Rivera must perforce be acquitted.

The presumption of innocence of the accused vis-a-vis the presumption of regularity in performance of official duties.

The right of the accused to be presumed innocent until proven guilty is a constitutionally protected right.[45] The burden lies with the prosecution to prove his guilt beyond reasonable doubt by establishing each and every element of the crime charged in the information as to warrant a finding of guilt for that crime or for any other crime necessarily included therein.[46]

Here, reliance on the presumption of regularity in the performance of official duty despite the lapses in the procedures undertaken by the buy-bust team is fundamentally unsound because the lapses themselves are affirmative proofs of irregularity.[47] The presumption of regularity in the performance of duty cannot overcome the stronger presumption of innocence in favor of the accused.[48] Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right to be presumed innocent.[49]

In this case, the presumption of regularity cannot stand because of the buy-bust team's blatant disregard of the established procedures under Section 21 of RA 9165. What further militates against according the apprehending officers in this case the presumption of regularity is the fact that even the pertinent internal anti-drug operation procedures then in force were not followed. Under the 1999 Philippine National Police Drug Enforcement Manual (PNPDEM), the conduct of buy-bust operations requires the following:[50]

CHAPTER V

x x x x

ANTI-DRUG OPERATIONAL PROCEDURES

x x x x

V. SPECIFIC RULES

x x x x

B. Conduct of Operation: (As far as practicable, all operations must be officer led)

1. Buy-Bust Operation - in the conduct of buy-bust operation, the following are the procedures to be observed:

- a. Record time of jump-off in unit's logbook;
- b. Alertness and security shall at all times be observed:

- c. Actual and timely coordination with the nearest PNP territorial units must be made;
- d. Area security and dragnet or pursuit operation must be provided:
- e. Use of necessary and reasonable force only in case of suspect's resistance:
- f. If buy-bust money is dusted with ultra violet powder make sure that suspect gel hold of the same and his palm/s contaminated with the powder before giving the pre-arranged signal and arresting the suspects;
- g. In pre-positioning of the team members, the designated arresting elements must clearly and actually observe the negotiation/transaction between suspect and the poseur-buyer;
- h. Arrest suspect in a defensive manner anticipating possible resistance with the use of deadly weapons which maybe concealed in his body, vehicle or in a place within arms reach;
- i. After lawful arrest, search the body and vehicle, if any, of the suspect for other concealed evidence or deadly weapon;
- j. Appraise suspect of his constitutional rights loudly and clearly after having been secured with handcuffs;
- k. Take actual inventory of the seized evidence by means of weighing and/or physical counting, as the case may be;
- l. Prepare a detailed receipt of the confiscated evidence for issuance to the possessor (suspect) thereof;
- m. The seizing officer (normally the poseur-buyer) and the evidence custodian must mark the evidence with their initials and also indicate the date, time and place the evidence was confiscated/seized;
- n. Take photographs of the evidence while in the process of taking the inventory, especially during weighing, and if possible under existing conditions, the registered weight of the evidence on the scale must be focused by the camera; and
- o. Only the evidence custodian shall secure and preserve the evidence in an evidence bag or in appropriate container and thereafter deliver the same to the PNP CLG for laboratory examination. (Emphasis and underscoring supplied)

The Court has ruled in *People v. Zheng Bai Hui*[51] that it will not presume to set an a priori basis what detailed acts police authorities might credibly undertake and carry out in their entrapment operations. However, given the police operational procedures and the fact that buy-bust is a planned operation, it strains credulity why the buy-bust team could not have ensured the presence of the required witnesses pursuant to Section 21 or at the very least marked, photographed and inventoried the seized items according to the procedures in their own operations manual.

A review of the facts of the case negates this presumption of regularity in the performance of official duties supposedly in favor of the arresting officers. The procedural lapses committed by the apprehending team resulted in glaring gaps in the chain of custody thereby casting doubt on whether the dangerous drug allegedly seized from Rivera was the same drug brought to the crime laboratory and eventually offered in court as evidence.

All told, the prosecution failed to prove the corpus delicti of the offense of sale of illegal drugs due to the multiple unexplained breaches of procedure committed by the buy-bust team in the seizure, custody, and handling of the seized drug. In other words, the prosecution was not able to overcome the presumption of innocence of Rivera.

As a reminder, the Court exhorts the prosecutors to diligently discharge their onus to prove compliance with the provisions of Section 21 of RA 9165, as amended, and its IRR, which is fundamental in preserving the integrity and evidentiary value of the corpus delicti. To the mind of the Court, the procedure outlined in Section 21 is

straightforward and easy to comply with. In the presentation of evidence to prove compliance therewith, the prosecutors are enjoined to recognize any deviation from the prescribed procedure and provide the explanation therefor as dictated by available evidence. Compliance with Section 21 being integral to every conviction, the appellate court, this Court included, is at liberty to review the records of the case to satisfy itself that the required proof has been adduced by the prosecution whether the accused has raised, before the trial or appellate court, any issue of non-compliance. If deviations are observed and no justifiable reasons are provided, the conviction must be overturned, and the innocence of the accused affirmed.[52]

WHEREFORE, in view of the foregoing, the appeal is hereby GRANTED. The Decision dated October 22, 2015 of the Court of Appeals, Eleventh Division in CA-G.R. CR-HC. No. 06830 is hereby REVERSED and SET ASIDE. Accordingly, accused-appellant JULIET RIVERA Y OTOM is ACQUITTED of the crime charged on the ground of reasonable doubt, and is ORDERED IMMEDIATELY RELEASED from detention unless she 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 Correctional Institution for Women, Mandaluyong City, for immediate implementation. The said Superintendent is ORDERED to REPORT to this Court within five (5) days from receipt of this Decision the action she 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 November 3, 2015, rollo, p.16.

[2] Rollo, pp. 2-15. Penned by Associate Justice Pedro B. Corales with Associate Justices Sesonando E. Villon and Rodil V. Zalameda, concurring.

[3] CA rollo, pp. 31-39. Penned by Judge Sonia T. Yu-Casano.

[4] Records, p. 1.

[5] Id.

[6] Rollo, p. 3.

[7] Id.

[8] CA rollo, p. 32; see id.

[9] Rollo, pp. 4-6.

[10] Id. at 6.

[11] Id. at 6-7.

[12] Id. at 7; CA rollo, p. 38.

[13] CA rollo, p. 38.

[14] Rollo, p. 14-15.

[15] Id. at 9.

[16] Id. at 11.

[17] Id. at 12.

[18] Records, p. 11.

[19] Rollo, p. 14.

[20] *People v. Opiana*, 750 Phil. 140, 147 (2015).

[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, December 1, 2010, p. 10.

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

[32] 736 Phil. 749 (2014).

[33] *People v. Tomawis*, supra note 31, at 11-12.

[34] TSN, December 1, 2010, p. 4.

[35] Id. at 6.

[36] Id. at 5.

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

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

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

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

[41] 797 Phil. 671 (2016).

[42] Id. at 690.

[43] *People v. Geronimo*, G.R. No. 180447, August 23, 2017, 834 SCRA 412, 425.

[44] Id.

[45] Constitution, Art. III, Sec. 14, par. (2). "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved x x x."

[46] *People v. Belocura*, 693 Phil. 476, 503-504 (2012).

[47] *People v. Mendoza*, *supra* note 32, at 769-770.

[48] Id.

[49] *People v. Catalan*, 699 Phil. 603, 621 (2012).

[50] PNPM-D-O-3-1-99 [NG], the precursor anti-illegal drug operations manual prior to the 2010 and 2014 AIDSOTF Manual.

[51] 393 Phil. 68, 133 (2000).

[52] See *People v. Jugo*, G.R. No. 231792, January 29, 2018, p. 10.

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