

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. NESTOR ABADILLA Y VERGARA, ACCUSED-APPELLANT.

G.R. No. 232496. October 08, 2018

Ponente: REYES, A., JR., J.

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REYES, A., JR., J.:

Before the Court is an ordinary appeal[1] filed by accused-appellant Nestor Abadilla y Vergara (Abadilla) assailing the Decision[2] dated February 6, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07891, which affirmed the Decision[3] dated September 30, 2015 of the Regional Trial Court (RTC) of Laoag City, Branch 13 in Criminal Case No. 15404-13 finding Abadilla guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5,[4] Article II of Republic Act (R.A.) No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002".

The Facts

The facts, as culled from the records, read as follows:

Abadilla was charged with Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of R.A. No. 9165, before the RTC of Laoag City, Branch 13 in Criminal Case No. 15404-13. The accusatory portion of the Information[5] reads:

That on or about the 3[rd] day of January 2013, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell and deliver to a police poseur buyer PO2 LAWRENCE GANIR two (2) heat sealed plastic sachets containing methamphetamine hydrochloride, commonly known as "shabu," a dangerous drug weighing 0.0245 grams and 0.0297 grams, respectively, valued in the total amount of One Thousand (P1,000.00) Pesos, without any license or authority to sell and dispose the same.

CONTRARY TO LAW.[6]

On arraignment, Abadilla pleaded "not guilty" to the charge. During the preliminary conference, the parties marked their exhibits, listed their witnesses and entered into a stipulation of facts. A pre-trial followed on May 28, 2013 but the parties merely adopted the minutes of the preliminary conference since there was neither new nor additional matters to be considered. Trial on the merits thereafter ensued.[7]

The prosecution presented the following witnesses: Police Inspector Amiely Ann Navarro (P/Insp. Navarro) and Senior Police Officer 2 Teodoro Flojo (SPO2 Flojo), both of the Philippine National Police (PNP) Ilocos Norte Provincial Crime Laboratory Office whose testimonies were proffered in writing by the prosecution and admitted by the defense; PO2 Lawrence Ganir (PO2 Ganir), SPO1 Jonathan Alonzo and SPO4 Rovimmanuel Balolong (Ret.) (SPO4 Balolong), all from the Laoag City Police Station (LCPS).[8]

Version of the Prosecution

At around 1:25 p.m. of January 3, 2013, one of the police assets of the LCPS called the Chief Intel operative, SPO4 Balolong, and reported to him that Abadilla then known by his alias "Mukat" was looking for buyers of shabu.[9]

SPO4 Balolong, thus, asked the asset if he can send one of his Intel operatives to pose as buyer. When the asset answered in the affirmative and since Abadilla was then in the house of the asset SPO4 Balolong immediately informed the Chief of Police who ordered the conduct of a buy bust operation. SPO4 Balolong therefore called his men then available for a short briefing. He assigned PO2 Ganir as poseur-buyer while he and SPO1 Arcel Agbayani (SPO1 Agbayani) will serve as back up. They agreed that the signal to indicate the consummation of the transaction will be a missed call from PO2 Ganir to the cellphone of SPO4 Balolong. Later, after SPO4 Balolong had recorded a Php 1,000.00 bill to be used as buy-bust money in the police blotter, the three policemen proceeded with the operation.[10]

PO2 Ganir went ahead in a public tricycle to the house of the asset located along Fariñas Street in Barangay 9, Laoag City. SPO4 Balolong and SPO1 Agbayani rode in the latter's car and followed tailing the tricycle of PO2 Ganir.[11]

As the tricycle of PO2 Ganir was approaching from the south along Fariñas Street, he saw the asset in front of their house talking to a male person whom he did not know yet to be Abadilla. At about 5 meters away, he alighted from the tricycle and as he was approaching the two, the asset introduced him to Abadilla. The transaction thereupon started, PO2 Ganir gave the buy-bust money to Abadilla who asked them to wait and he will get the stuff. Abadilla went towards the south where he boarded a tricycle which then turned to Gomburza Street.[12]

In the meantime, PO2 Ganir and the asset talked while the back-up who parked their vehicle about 15 m away from the house of the asset stood by. After 20 minutes, Abadilla returned riding in the tricycle and gave two plastic sachets of white crystalline substance suspected to be shabu to PO2 Ganir who, after pocketing the same, executed the pre-arranged signal and arrested Abadilla. When the back-up arrived at the place, they helped PO2 Ganir in arresting Abadilla whom they then boarded in their vehicle.[13]

At the LCPS where they brought Abadilla, the team prepared the charges against him. The two plastic sachets of white crystalline substance together with a letter request for laboratory examination was later submitted to the PNP Ilocos Norte Provincial Crime Laboratory Office where the forensic chemist, P/Insp. Navarro positively identified the crystalline substance as shabu.[14]

Version of the Defense

Abadilla, 34 years old, married and who claimed to be a part time mini bus conductor denied the accusation against him. He claimed that he was just illegally attested. As can be pieced together from his short testimony, he was then in the house of his in-law Alberto de los Reyes located at Barangay 8, # 24, Panganiban Street, Laoag City that afternoon of January 3, 2013 standing by waiting for mini buses to clean. After washing several mini buses at the Badoc-Laoag bus near the YMCA, just across the house of his in-law, a male person approached and told him that he has a cellphone to sell. After looking at the cellphone, he told the male person to wait as he will go home to tell his daughter about it. He flagged down a tricycle but he was not able to leave anymore and was surprised when two men whom he did not know just grabbed him, boarded him in their white car and took him to the police station.[15]

The trial court opined that the accused was validly caught in flagrante selling shabu through a buy-bust operation conducted by members of the LCPS. The poseur-buyer, PO2 Ganir, positively identified him as the seller and

testified that in the course of the buy-bust operation, the sale transaction took place.[16]

According to the trial court, the narration of PO2 Ganir satisfied the "objective test" in buy-bust operations. Under the objective test, the prosecution must be able to present a complete picture detailing the buy-bust operation – from the initial contact between the poseur-buyer and the pusher, the offer to purchase, the promise or payment of the consideration, until the consummation of the sale by the delivery of the illegal subject of sale.[17]

Further, it held that prior surveillance, verification or test buy are not pre-requisites to a valid buy-bust operation. There is no law or rule requiring that these prior acts should be conducted before a buy bust operation can be implemented. Like prior surveillance, verification or test buy is not an element of and is not vital to a prosecution for illegal sale of dangerous drugs.[18]

In a Decision[19] dated September 30, 2015, it rendered a judgment of conviction, the dispositive portion of which reads:

WHEREFORE, the Court finds [Abadilla] GUILTY beyond reasonable doubt as charged of illegal sale of shabu and is accordingly sentenced to suffer the penalty of Life Imprisonment and to pay a fine of P500,000.00.

The shabu subject hereof is hereby confiscated for proper disposition as the law prescribes.

SO ORDERED.[20]

On appeal, Abadilla imputed the following errors allegedly committed by the trial court:

- THE TRIAL COURT GRAVELY ERRED IN NOT FINDING [ABADILLA'S] WARRANTLESS ARREST AS ILLEGAL;
- THE TRIAL COURT ERRED IN CONVICTING [ABADILLA] DESPITE THE NON-PRESENTATION OF THE POLICE ASSET AS A WITNESS;
- THE TRIAL COURT GRAVELY ERRED IN FINDING [ABADILLA] GUILTY DESPITE THE POLICE OFFICERS' NON-COMPLIANCE WITH SECTION 21 OF [R.A.] NO. 9165 AND ITS IMPLEMENTING RULES AND REGULATIONS; and
- THE TRIAL COURT GRAVELY ERRED IN FINDING [ABADILLA] GUILTY DESPITE THE BROKEN CHAIN OF CUSTODY OF THE ALLEGEDLY CONFISCATED SHABU.[21]

The CA found no reason to disturb the findings of the trial court. According to the CA, the recovery and handling of the seized illegal drugs were more than satisfactorily established by the prosecution. It likewise opined that since the integrity of the seized item has been maintained, the absence of an elected public official, representatives from the media and the Department of Justice (DOJ) during the marking, inventory and photography of the seized items is not fatal to the prosecution's case. Thus, in a Decision[22] dated February 6, 2017, it affirmed the judgment of conviction rendered by the trial court. The dispositive portion of the CA decision reads:

WHEREFORE, the appeal is DENIED. The Decision dated September 30, 2015 of the [RTC] of Laoag, City, Branch 13, in Criminal Case No. 15404-13 is hereby AFFIRMED.

SO ORDERED.[23]

Hence, this appeal.

The Issue

Essentially, the main issue to be resolved is whether or not Abadilla is guilty beyond reasonable doubt of violating Section 5, Article II of R.A. No. 9165.

Ruling of the Court

The appeal is meritorious. Abadilla should be acquitted based on reasonable doubt.

In order to secure a conviction for Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of R.A. No. 9165, the prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor. What is important is that the sale transaction of drugs actually took place and that the object of the transaction is properly presented as evidence in court and is shown to be the same drugs seized from the accused.[24]

The prosecution must prove with moral certainty the identity of the prohibited drug, considering that the dangerous drug itself forms part of the corpus delicti of the crime. The prosecution has to show an unbroken chain of custody over the dangerous drugs so as to obviate any unnecessary doubts on the identity of the dangerous drugs on account of switching, "planting," or contamination of evidence. Accordingly, the prosecution must be able to account for each link in the chain of custody from the moment that the illegal drugs are seized up to their presentation in court as evidence of the crime.[25]

Abadilla was charged with the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Sections 5, Article II of R.A. No. 9165. Abadilla insists that his warrantless arrest being illegal, the allegedly confiscated shabu should not have been admitted in evidence for being fruit of the poisonous tree. He likewise argued that the prosecution failed to prove an unbroken chain of custody of the seized dangerous drugs -- the items were not marked, inventoried and photographed in the presence of the three required witnesses, i.e., a representative from the DOJ, a representative from the media and an elected public official, as mandated by Section 21, Article II of R.A. No. 9165.

In a series of jurisprudence,[26] the Court has repeatedly held that a buy-bust operation is "a form of entrapment, in which the violator is caught in flagrante delicto and the police officers conducting the operation are not only authorized but duty-bound to apprehend the violator and to search him for anything that may have been part of or used in the commission of the crime." [27]

As discussed in *People v. Agulay*, [28] it is a valid and effective mode of apprehending drug pushers, viz.:

A buy-bust operation is a form of entrapment which in recent years has been accepted as a valid and effective mode of apprehending drug pushers. In a buy-bust operation, the idea to commit a crime originates from the offender, without anybody inducing or prodding him to commit the offense. If carried out with due regard for constitutional and legal safeguards, a buy-bust operation deserves judicial sanction.[29]

A careful perusal of the records shows that a consummated buy-bust transaction transpired between Abadilla and the poseur-buyer, PO2 Ganir. The latter positively identified Abadilla as the person who voluntarily sold to him the two (2) sachets of shabu for Php1,000.00. PO2 Ganir's testimony was not only clear and straightforward but was likewise corroborated by the testimony of SPO4 Balolong, the police officer who acted as back-up during the buy-bust operation. Thus, the instant case clearly falls under the exception to the rule requiring a warrant before effecting an arrest.

In cases involving Illegal Sale of Dangerous Drugs, the chain of custody begins the moment the dangerous drugs are seized from the seller after a consummated sale transaction. The prosecution must prove that from the time of seizure up until the seized items are presented in court as evidence, that there was no break or gap in the chain of custody that would ultimately cast doubt on the identity, integrity and evidentiary value of the seized items.

In *People v. Relato*,^[30] the Court explained that the State not only carries the heavy burden of proving the elements of the offense but also bears the obligation to prove the corpus delicti, failing in which the State will not discharge its basic duty of proving the guilt of the accused beyond reasonable doubt. It is settled that the State does not establish the corpus delicti when the prohibited substance subject of the prosecution is missing or when substantial gaps in the chain of custody of the prohibited substance raise grave doubts about the authenticity of the prohibited substance presented as evidence in court. Any gap renders the case for the State less than complete in terms of proving the guilt of the accused beyond reasonable doubt.^[31]

Section 21, Article II of R.A. No. 9165 laid down the procedure that must be observed and followed by police officers in the seizure and custody of dangerous drugs. Paragraph one (1) provides a list of the witnesses required to be present during the inventory and taking of photographs and the venue where these should be conducted, to wit:

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. (Emphasis and underscoring Ours)

In 2014, R.A. No. 10640^[32] amended R.A. No. 9165, specifically Section 21 thereof, to further strengthen the anti-drug campaign of the government. Paragraph 1 of Section 21 was amended, in that the number of witnesses required during the inventory stage was reduced from three (3) to only two (2), to wit:

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

1. The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the person/s for whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official AND a representative of the National Prosecution Service OR the media who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/ team whichever is practicable, in case of warrantless seizures: Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly by the apprehending officer/ team, shall not render void and invalid such seizures and custody over said items. (Emphasis and underscoring Ours)

One of the amendments introduced by R.A. No. 10640 was the reduction of the number of witnesses required to

be present during the inventory and photography of the seized items, from three to only two - an elected public official AND a representative of the National Prosecution Service (DOJ) OR the media. These witnesses must be present during the inventory stage to obviate even the slightest possibility of switching, planting or contamination of evidence. The witnesses are also required to sign the copies of the inventory and be given a copy of the same, to ensure that the identity and integrity of the seized items are preserved and that the police officers complied with the required procedure. R.A. No. 10640 likewise incorporated the saving clause contained in the Implementing Rules and Regulations (IRR) which in essence states that for as long as the integrity and evidentiary value of the seized items are preserved, non-compliance with the mandatory requirements found in Section 21 may be excused. This, however, comes with a proviso that the prosecution must be able to explain the reason behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had nonetheless been preserved.

Since the offense subject of this appeal was committed before the amendment introduced by R.A. 10640, the old provisions of Section 21 and its IRR should apply, viz.:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof. Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further that non-compliance with these requirements under justifiable grounds, as long as the integrity and 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. (Emphasis and underscoring Ours)

In addition to the requirements of venue of physical inventory and photography of the seized items, Section 21 also requires the presence of three witnesses during the actual inventory, i.e., (1) an elected public official, (2) a representative from the DOJ and (3) a representative from the media. The Court, in *People v. Mendoza*,^[33] explained that the presence of these witnesses would preserve an unbroken chain of custody and prevent the possibility of tampering with or 'planting' of evidence, viz.:

[W]ithout the insulating presence of the representative from the media or the [DOJ], or any elected public official during the seizure and marking of the [seized drugs], the evils of switching, 'planting' or contamination of the evidence that had tainted the buy-busts conducted under the regime of [R.A. 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 [said drugs] that were evidence herein of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused.^[34]

According to the CA, Section 21 of the IRR of R.A. No. 9165 merely requires "substantial" and not necessarily "perfect adherence", as long as it can be proven that the integrity and evidentiary value of the seized items are preserved. The pertinent portion of the assailed CA decision reads:

[Abadilla] lamented that the items seized were not marked, inventoried and photographed in the presence of a member of the media, a representative from the DOJ, and an elective government official. While this factual allegation is admitted, the Court stresses that what Section 21 of the [IRR] of R.A. No. 9165 requires is "substantial" and not necessarily "perfect adherence," as long as it can be proven that the integrity and the evidentiary value of the seized items are preserved as the same would be utilized in the determination of the guilt or innocence of the accused.^[35]

The Court is well aware that a perfect chain of custody is almost always impossible to achieve, however, the prosecution cannot simply invoke the saving clause found in Section 21 - that the integrity and evidentiary value of the seized items have been preserved - without justifying their failure to comply with the requirements stated therein. In similar cases involving buy-bust operations, the Court has consistently ruled that failure of the arresting officers to justify the absence of the required witnesses constitutes a substantial gap in the chain of custody.

In the recent case of *People of the Philippines v. Vicente Sipin y De Castro*,^[36] the Court stressed that the prosecution bears the burden of proving a valid cause for non-compliance with the procedure laid down in Section 21 of R.A. No. 9165, viz.:

The prosecution bears the burden of proving a valid cause for non-compliance with the procedure laid down in Section 21 of RA No. 9165, as amended. It has the positive duty to demonstrate observance thereto in such a way that during the trial proceedings, it must initiate in acknowledging and justifying any perceived deviations from the requirements of law. Its failure to follow the mandated procedure must be adequately explained, and must be proven as a fact in accordance with the rules on evidence. It should take note that the rules require that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit, coupled with a statement on the steps they took to preserve the integrity of the seized items. Strict adherence to Section 21 is required where the quantity of illegal drugs seized is miniscule, since it is highly susceptible to planting, tampering or alteration of evidence.^[37] (Emphasis and underscoring Ours)

Even the presumption as to regularity in the performance by police officers of their official duties cannot prevail when there has been a clear and deliberate disregard of procedural safeguards by the police officers themselves. The Court's ruling in *People v. Umipang*^[38] is instructive on the matter:

Minor deviations from the procedures under R.A. 9165 would not automatically exonerate an accused from the crimes of which he or she was convicted. This is especially true when the lapses in procedure were recognized and explained in terms of justifiable grounds. There must also be a showing that the police officers intended to comply with the procedure but were thwarted by some justifiable consideration/reason. However, when there is gross disregard of the procedural safeguards prescribed in the substantive law (R.A. 9165), serious uncertainty is generated about the identity of the seized items that the prosecution presented in evidence. This uncertainty cannot be remedied by simply invoking the presumption of regularity in the performance of official duties, for a gross, systematic, or deliberate disregard of the procedural safeguards effectively produces an irregularity in the performance of official duties. As a result, the prosecution is deemed to have failed to fully establish the elements of the crimes charged, creating reasonable doubt on the criminal liability of the accused.

For the arresting officers' failure to adduce justifiable grounds, we are led to conclude from the totality of the procedural lapses committed in this case that the arresting officers deliberately disregarded the legal safeguards under R.A. 9165. These lapses effectively produced serious doubts on the integrity and identity of the corpus delicti, especially in the face of allegations of frame-up. Thus, for the foregoing reasons, we must resolve the doubt in favor of accused-appellant, as every fact necessary to constitute the crime must be established by proof beyond reasonable doubt.

As a final note, we reiterate our past rulings calling upon the authorities to exert greater efforts in combating the drug menace using the safeguards that our lawmakers have deemed necessary for the greater benefit of our society. The need to employ a more stringent approach to scrutinizing the evidence of the prosecution especially when the pieces of evidence were derived from a buy-bust operation redounds to the benefit of the criminal justice system by protecting civil liberties and at the same time instilling rigorous discipline on prosecutors.^[39] (Citations omitted and emphasis and underscoring Ours)

The arresting officers claimed that they were not able to secure the attendance of the required witnesses due to time constraints - they claimed that it was almost 5:00 p.m. when the operation ended. Interestingly, the records

state that at around 1:40 p.m., the buy-bust team proceeded to the subject area to carry out the buy-bust operation. The records likewise state that the marked plastic sachets of shabu were submitted to the crime laboratory as early as 4:30 p.m. of the same day. Following the usual procedure observed in drugs cases, it is logical to assume that the seized items were marked, inventoried and photographed sometime between 2:00 p.m. to 4:00 p.m. - clearly within office hours. There is, thus, no excuse to dispense with the mandatory requirements under Section 21 of R.A. No. 9165.

The trial court, in its decision, similarly opined that the justification provided by the arresting officers was not impressive enough. The pertinent portion of the RTC decision reads:

At the outset, it must be emphasized that Section 21 of RA 9165 allows in cases of warrantless arrests such as a buy-bust operation that the inventory and taking of photographs including the marking of the seized drugs can be done at the nearest police station. This was done in this case. There were only no witnesses summoned and present in accordance with the law. In fact, the justification especially referring to the lack of time to call for the barangay officials, the media and representative of the DOJ, is not impressive because it is not true that it was already about 5:00 o'clock in the afternoon. It must be noted that it was earlier at 4:30 (1630H) that the two plastic sachets were submitted to the crime lab. x x x.[40]

The buy-bust operation was carried out clearly within office hours and in broad daylight. There being no mention of any other circumstance or reason that prevented the arresting officers from securing the attendance of the witnesses at the inventory, the saving clause will not apply. As previously stated, the unjustified absence of these witnesses during the inventory constitutes a substantial gap in the chain of custody. This procedural lapse cannot be cured by the simple expedient of invoking the saving clause found in Section 21 or the presumption that the arresting officers performed their duties in a regular manner. Where the official act in question is irregular on its face, the presumption of regularity cannot stand. There being a substantial gap or break in the chain, it casts serious doubts on the integrity and evidentiary value of the corpus delicti which is the dangerous drug itself.

Finally, it cannot be gainsaid that it is mandated by no less than the Constitution[41] that an accused in a criminal case shall be presumed innocent until the contrary is proved. In *People of the Philippines v. Marilou Hilario y Diana and Laline Guadayo y Royo*,[42] the Court ruled that the prosecution bears the burden to overcome such presumption. If the prosecution fails to discharge this burden, the accused deserves a judgment of acquittal. On the other and, if the existence of proof beyond reasonable doubt is established by the prosecution, the accused gets a guilty verdict. In order to merit conviction, the prosecution must rely on the strength of its own evidence and not on the weakness of the evidence presented by the defense.

WHEREFORE, premises considered, the appeal is GRANTED. The Decision dated February 6, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 07891 is hereby REVERSED and SET ASIDE. Accordingly, accused-appellant Nestor Abadilla y Vergara is ACQUITTED of the crimes charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

SO ORDERED.

Carpio (Chairperson), Perlas-Bernabe, and Caguioa, JJ., concur.
J. Reyes, Jr., J.,[*] on wellness leave.

[*] In wellness leave; designated Additional Member per Special Order No. 2587 dated August 28, 2018.

[1] CA rollo, pp. 140-141.

[2] Penned by Associate Justice Socorro B. Inting, with Associate Justices Remedios A. Salazar-Fernando and Priscilla J. Baltazar-Padilla, concurring; rollo, pp. 2-17.

[3] CA rollo, pp. 52-67.

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

[5] CA rollo, p. 52.

[6] Id.

[7] Id. at 53.

[8] Id.

[9] Id.

[10] Id.

[11] Id,

[12] Id. at 53-54.

[13] Id. at 54.

[14] Id.

[15] Id.

[16] Id. at 55.

[17] Id. at 58.

[18] Id. at 58-59

[19] Id. at 52-67.

[20] Id. at 67.

[21] Rollo, pp. 6-7.

[22] Id. at 2-16.

[23] Id. at 16.

[24] *People of the Philippines v. Salim Ismael y Radang*, G.R. No. 208093, February 20, 2017.

[25] *People of the Philippines v. Ronaldo Paz y Dionisio*, G.R. No. 229512, January 31, 2018, citing *People v. Viterbo, et al.*, 739 Phil. 593, 601 (2014); *People v. Alivio, et al.*, 664 Phil. 565, 580 (2011); *People v. Denoman*, 612 Phil. 1165, 1175 (2009).

[26] *People v. Adriano*, 745 Phil. 203 (2014), citing *People v. Mateo*, 582 Phil. 390, 410 (2008), *People v. Ong*, 476 Phil. 553, 571 (2004), and *People v. Juatan*, 329 Phil. 331, 337-338 (1996).

[27] *People v. Adriano*, id. at 213.

[28] 588 Phil. 247 (2008)

[29] Id. at 272.

[30] 679 Phil. 268 (2012).

[31] Id. at 277-278.

[32] AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002". Approved on June 9, 2014.

[33] 736 Phil. 749 (2014).

[34] Id. at 764.

[35] Rollo, pp. 13-14.

[36] G.R. No. 224290, June 11, 2018.

[37] Id.

[38] 686 Phil. 1024 (2012).

[39] Id. at 1053-1054.

[40] CA rollo, p. 65.

[41] Article III, Section 14(2) of the Constitution mandates:

Sec. 14. x x x

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

[42] G.R. No. 210610, January 11, 2018.

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