

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROSELINE KASAN Y ATILANO AND HENRY LLACER Y JAO,
ACCUSED-APPELLANTS.**

G.R. No. 238334. July 03, 2019

Ponente: LAZARO-JAVIER, J.

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LAZARO-JAVIER, J.:

The Case

This appeal assails the Decision[1] dated September 29, 2017 of the Court of Appeals in CA-G.R. CR HC No. 08530 entitled "People of the Philippines v. Roseline Kasany Atilano and Henry Llacer y Jao," affirming the conviction of Roseline Kasan and Henry Llacer for violation of Section 5 of Republic Act (RA) No. 9165,[2] and Henry Llacer for violation of Section 11 of RA 9165.

The Proceedings Before the Trial Court

The Charge

By Information[3] dated December 11, 2015, in Criminal Case No. 15-3938, appellants Roseline Kasan and Henry Llacer were charged with violation of Section 5 of RA 9165, viz:

On the 10[th] day of December 2015, in the City of Makati, the Philippines, accused, conspiring and confederating together and both of them mutually helping and aiding one another, without the necessary license or prescription and without being authorized by law, did then and there willfully, unlawfully, and feloniously sell, deliver, and give away Methamphetamine Hydrochloride weighing zero point eighteen (0.18) gram, a dangerous drug, in consideration of Php500.

CONTRARY TO LAW.

By separate Information[4] dated December 14, 2015, in Criminal Case No. 15-3939, appellant Henry Llacer was also charged with violation of Section 11 of RA 9165, thus:

On the 10[th] day of December 2015, in the City of Makati, the Philippines, accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully, and feloniously have in his possession, direct custody and control of zero point zero nine (0.09) gram of Methamphetamine Hydrochloride, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.

The cases were both raffled to Regional Trial Court, Branch 65, Makati City.

In Criminal Case No. 15-3938, appellants Roseline Kasan and Henry Llacer, when arraigned, pleaded "not guilty." [5]

In Criminal Case No. 15-3939, appellant Henry Llacer, when arraigned, also pleaded "not guilty." [6]

The Prosecution's Evidence

SPO1 Mike Lester Pacis and SPO2 Rommel Ladiana, both police officers assigned at Station Anti-Legal Drugs Special Operation Task Group (SAIDSOTG), Makati Police Station, identified and confirmed [7] the contents of their Joint Affidavit of Arrest [8] dated December 10, 2015. According to them, on December 10, 2015, about 1 o'clock in the morning, they arrested appellants for illegal sale and possession of dangerous drugs. Before the incident, they were briefed by their team leader that per report of the confidential informant, a certain "alias Bakulaw" and "alias Penny" of JB Roxas St., Brgy. Olympia, Makati were engaged in illegal drug activities in the area. [9]

Consequently, they coordinated with the Philippine Drug Enforcement Agency (PDEA) for narcotics operation [10] and formed a buy-bust team with SPO1 Pacis as designated poseur buyer and SPO2 Ladiana, as immediate back-up. SPO1 Pacis received the P500-bill (marked money) with Serial No. WN785257 and with initials "MLP" on its upper-right portion. They agreed on the pre-arranged signal: SPO1 Pacis will tap the shoulder of the suspect. [11]

SPO1 Pacis took a motorcycle and proceeded to the corner of Osmeña and JB Roxas Sts., Brgy. Olympia, Makati City to meet with the informant. The rest of the team rode a privately-owned vehicle going to the area. There, SPO1 Pacis, together with the informant, walked toward the spot where "Bakulaw" and "Penny" were allegedly selling drugs. [12] SPO1 Pacis saw a woman, wearing shorts and a gray blouse, casually standing in front of a house. The informant told him that the woman was "Penny." SPO2 Ladiana covertly followed SPO1 Pacis and strategically positioned himself close by. The informant introduced PO1 Pacis to "Penny" (later identified as appellant Roseline Kasan), telling her that PO1 Pacis wanted to buy shabu. [13]

"Penny" asked SPO1 Pacis "Magkano kailangan mo? (How much do you need?)," to which the latter replied "Limang daan, Ate (Five hundred pesos, miss)." "Akin na (Give it to me)" said "Penny." "Bakulaw" (later identified as appellant Henry Llacer) approached and asked "Magkano (How much?)" "Penny" replied "Lima (Five)." "Bakulaw" took out one plastic sachet of shabu and handed it to SPO1 Pacis. "Eto (Here)." SPO1 Pacis took the plastic sachet (later marked "MLP") and slid it in his right pocket. [14]

Thereupon, SPO1 Pacis tapped "Bakulaw's" shoulder and grabbed him and "Penny." He introduced himself to them as a police officer. As soon as, SPO2 Ladiana saw the pre-arranged signal, he immediately closed in. SPO1 Pacis apprised "Bakulaw" and "Penny" of their constitutional rights. He also frisked "Bakulaw" and recovered from the latter's right pocket one small plastic sachet of shabu (later marked "MLP-1"). SPO1 Pacis further retrieved from "Penny's" right hand the buy-bust money. [15]

For security reasons, they brought petitioners and the seized items to the barangay hall of Brgy. Olympia, Makati City. Since there was no available barangay official there, the team proceeded, instead, to the barangay hall of Brgy. West Pembo, Makati City. There, they conducted the inventory in the presence of Barangay Kagawad Rodrigo Neri. They also photographed petitioners and the seized items. The seized items were subsequently turned over to case investigator PO3 Roque Carlo Paredes II, then to the crime laboratory. [16]

The prosecution and the defense stipulated on the testimonies of the other prosecution witnesses as borne in the trial court's Order [17] dated January 21, 2016, viz:

The prosecution and the defense likewise stipulated on the subject matter of the testimonies of PO3 Roque Carlo M. Paredes, PSI Rendielyn Sahagun and Brgy. Kagawad Rodrigo Neri, to wit: 1) that PO3 Paredes is the police investigator on (the) case who prepared the Investigation Report as well as the requests to the PNP

Crime Laboratory Office for the laboratory examination of the items allegedly recovered and the drug test on the persons of the accused; 2) that PSI Sahagun was the forensic chemical officer who prepared Chemistry Report No. D-1297-2015 pursuant to the Request for Laboratory Examination; 3) the qualification of PSI Sahagun as an expert witness in preparing Chemistry Report No. D-1297-2015; 4) that Brgy. Kagawad Neri acted as independent witness during the inventory of the items allegedly recovered; and 5) that they had no personal knowledge as to the circumstances regarding the alleged confiscation of the items from the persons of the accused. Hence, their testimonies in open court were already dispensed with.[18]

The prosecution submitted the following documentary and object evidence: 1) SAID-SOTG Case Referral and Final Investigation Report;[19] 2) petty cash voucher and the marked P500-bill;[20] 3) PDEA Coordination Form and Pre-Operation Report both bearing Control No. 10001-122015-0155;[21] 4) Inventory Receipt[22] dated December 10, 2015; 5) PDEA Spot Report[23] dated December 10, 2015; 6) Request for Drug Test[24] dated December 10, 2015; 7) Request for Laboratory Examination[25] dated December 10, 2015; 8) Chemistry Report No. D-1297-15;[26] 9) Chain of Custody Form;[27] 10) plastic sachet marked "MLP"; 11) plastic sachet marked "MLP-1"; 12) SAID-SOTG Custody Form[28] dated December 10, 2015; 13) photographs taken during the inventory and marking of evidence;[29] 14) mug shots of appellants;[30] 15) appellants' medical certificates;[31] 16) Joint Affidavit of Arrest[32] dated December 10, 2015 of SPO1 Mike Lester Pacis and SPO2 Rommel Ladiana; and 17) Affidavit of Undertaking[33] dated December 10, 2015 of PO3 Roque Carlo Paredes II.

The Defense's Evidence

Appellant Roseline Kasan claimed she and Henry Llacer were framed-up. She testified that on December 9, 2015, around 3:30 o'clock in the afternoon, she was inside her room, sleeping with her daughter, when two men suddenly barged in. She reacted with a slew of curses directed against these men. She asked what they were doing inside her room. The men then took hold of her, causing her daughter to wake up. Her daughter asked the men why they were taking her mother. Her daughter hugged her but the men pulled her daughter away.[34]

The men asked her about a person she did not know. She shouted and cursed. The men then dragged her to the ground floor and slapped her. They continued dragging her out of the house toward a parked motorcycle. A lot of people witnessed the incident.[35]

They brought her to the barangay hall where the police officers showed her an illegal drug, claiming it belonged to her. She never possessed or used illegal drugs. She was a massage therapist earning P800 per session. The father of her daughter, an American-Indian based in Las Vegas gave them support. She got arrested on December 9 and not December 10, 2015.[36] Henry Llacer was her kumpare. The police asked P20,000.00 from each of them in exchange for their release.[37]

Henry Llacer denied ever selling or being in possession of dangerous drugs. On December 9, 2015, around 3 o'clock in the afternoon, he was inside his room on the second floor of his residence. Three armed men in civilian clothes went up to his room. They did not show him any search warrant. One of them poked a gun on him, asking him if he was "Olan." He replied that "Olan" was in another house. They forcibly handcuffed and hurt him because he was resisting. He asked "Bakit n'yo po ako inaaresto, wala naman po akong kasalanan? (Why are you arresting me? I am not at fault)." They replied "Sumama ka na lang doon ka na lang magpaliwanag (Just come with us. You can explain yourself later)."[38]

He was taken to the police station. After a few minutes, SPO1 Pacis told him and Roseline that they could call and ask their relatives to produce P20,000.00 for each of them in exchange for their liberty. They were given until midnight to raise the money otherwise they would be charged. There were four others, aside from him and Roseline, who were also arrested. These four were released because they were able to pay the police officers.[39]

They were first detained at the police station, and around midnight, they were taken to Brgy. Palanan for medical examination.[40] From Brgy. Palanan, they were brought to Brgy. West Pembo where they arrived around 4 o'clock in the morning of December 10, 2015. At West Pembo, SPO1 Pacis brought out two plastic sachets and a P500-bill and laid these out on a table. SPO1 Pacis asked Barangay Kagawad Rodrigo Neri to sign something.[41]

The Trial Court's Ruling

By Decision[42] dated June 29, 2016, the trial court found both Roseline Kasan and Henry Llacer guilty of violation of Section 5 of RA 9165 in Criminal Case No. 15-3938; and Henry Llacer also guilty of violation of Section 11 of RA 9165 in Criminal Case No. 15-3939.

The trial court held that the collective evidence of the prosecution proved there was a valid buy-bust operation which resulted in the purchase of 0.18 gram of shabu (marked "MLP") from both appellants and the subsequent recovery from Henry Llacer of 0.09 gram (marked "MLP-1"). The prosecution was able to prove that the integrity and identity of the corpus delicti were preserved. Thus, the trial court decreed:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. 15-3938, the court finds both accused Roseline Kasan y Atilano and Henry Llacer y Jao GUILTY beyond reasonable doubt of the crime of violation of Section 5, Article II, R.A. No. 9165 and sentences them to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00)
2. In Criminal Case No. 15-3939, the court finds accused Henry Llacer y Jao GUILTY beyond reasonable doubt of the crime of violation of Section 11, Article II, R.A. No. 9165 and sentences him to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum to fourteen (14) years and eight (8) months as maximum, and to pay a fine of Three Hundred Thousand Pesos (P300,000.00)

The period of detention of both accused should be given full credit.

The Branch Clerk of Court is directed to transmit the plastic sachets containing shabu subject matter of these cases to the PDEA for said agency's appropriate disposition.

Let the dangerous drugs subject matter of these cases be disposed of in the manner provided for by law.

SO ORDERED.[43]

The Proceedings Before the Court of Appeals

On appeal, Roseline Kasan and Henry Llacer brought to fore the alleged procedural lapses in the entrapment operation and the prosecution's failure to prove the corpus delicti of the offenses charged.[44]

In refutation, the Office of the Solicitor General (OSG), through Assistant Solicitor General Derek Puertollano and Senior State Solicitor Arturo Medina defended the verdict of conviction. The OSG essentially argued that the integrity and evidentiary value of the seized drugs were properly preserved in compliance with the chain of custody rule.[45]

The Court of Appeals' Ruling

The Court of Appeals affirmed through its assailed Decision dated September 29, 2017. It held there was a valid buy-bust operation which led to appellants' arrest and the confiscation of the dangerous drugs in question. It also found that the arresting officers substantially complied with the chain of custody rule and the integrity of the corpus delicti was duly preserved. Lastly, it gave credence and respect to the trial court's factual findings and its

assessment of the credibility of witnesses.[46]

The Present Appeal

Appellants Roseline Kasan and Henry Llacer now fault the Court of Appeals for affirming their conviction despite the following procedural infirmities. First, the apprehending team failed to immediately mark the seized items, conduct an inventory, and take photographs immediately at the place of arrest. Second, during the inventory, only an elected public official was present.[47] Third, it was not PO3 Roque Carlo Paredes II, the designated police investigator, who turned over the specimens to the crime laboratory, but SPO1 Pacis himself took a sharp departure from the ordinary course of things. Fourth, the stipulated testimony of PO3 Paredes did not provide a clear picture of how he handled the seized items. Fifth, the stipulated testimony of the forensic chemist did not contain any information on how the corpus delicti was handled during its chemical analysis.[48]

The OSG submits anew that the integrity and evidentiary value of the seized drugs were properly preserved. The plastic sachets were duly marked by SPO1 Pacis at the barangay hall of Brgy. West Pembo and not at the situs criminis for security reasons. The inventory and photograph were done in appellants' presence. The two plastic sachets were duly submitted by PO3 Paredes to the forensic laboratory. The marked plastic sachets were confirmed to have contained shabu and to have been duly submitted in evidence to the trial court. Finally, the police officers regularly performed their official duty.[49]

Issue

Did the Court of Appeals err in affirming the verdict of conviction despite the procedural deficiencies in the chain of custody compliance?

Ruling

In illegal drugs cases, the drug itself constitutes the corpus delicti of the offense. The prosecution is, therefore, tasked to establish that the substance illegally possessed by the accused is the same substance presented in court.[50] The chain of evidence is constructed by proper exhibit handling, storage, labelling, and recording, and must exist from the time the evidence is found until the time it is offered in evidence.[51]

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody: first, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.[52]

The chain of custody rule came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration or substitution, by accident or otherwise.[53] *People v. Beran*[54] further emphasized why the integrity of the confiscated illegal drug must be safeguarded, viz:

By 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 or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great." Thus, the courts have been exhorted to be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses. Needless to state, the lower court should have exercised the utmost diligence and prudence in deliberating upon accused-appellants' guilt. It should have given more serious consideration to the pros and cons of the evidence offered by both the defense and the State and many loose ends should have been settled by the trial court in determining the merits of the present case.

Thus, every fact necessary to constitute the crime must be established, and the chain of custody requirement under R.A. No. 9165 performs this function in buy-bust operations as it ensures that any doubts concerning the identity of the evidence are removed."

Appellants Roseline Kasan and Henry Llacer were charged with violation of Section 5 of RA 9165 on December 11, 2015. In addition, appellant Henry Llacer was charged with violation of Section 11 of RA 9165 on even date. The applicable law is RA 9165, as amended by RA 10640, viz:

(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 from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

In open court, SPO1 Pacis and SPO2 Ladiana identified and confirmed the veracity of their Joint Affidavit of Arrest dated December 10, 2015, viz:

x x x

As a matter of procedure, inventory was conducted at the place of arrest but for security reasons, operating team decided to convey the arrested suspects together with the seized evidence at the Brgy. Hall of Brgy. Olympia, Makati City to conduct the inventory. Due to the unavailability of an elected official in the said barangay to witness the said process, the team conducted inventory at the Brgy. Hall of Brgy. West Rembo (sic), Makati City in the very presence of Kagawad RODRIGO NERI. For evidentiary purposes this procedure was photographed after doing so arrested suspect, together with the pieces of evidence were turned over to the Case Investigator PO3 Roque Carlo M. Paredes II for formal disposition and proper investigation, then to Crime Laboratory and Medical Examination of the suspect.[55]

x x x

On its face, the joint affidavit of arrest of SPO1 Pads and SPO2 Ladiana bears the following procedural deficiencies in the chain of custody of the drugs in question.

First. The seized drugs were not marked, inventoried, or photographed at the place of arrest.

In *People v. Ramirez*,^[56] the Court acquitted the appellant because the marking was not done in the presence of the apprehended violator immediately upon confiscation to truly ensure that they were the same items which entered the chain of custody. The Court noted that the time and distance from the scene of the arrest until the drugs were marked at the barangay hall were too substantial that one could not help but think that the evidence could have been tampered.

Here, appellants got arrested at the corner of Osmeña and JB Roxas Sts., Brgy. Olympia, Makati City. But police officers brought them first to the barangay hall of Brgy. Olympia, Makati City. Since there was no available barangay official there, the team transferred to the barangay hall of Brgy. West Pembo, Makati City. It was only after two hours from the time of arrest that the seized items were finally marked by SPO1 Paris.^[57] All through the two-hour gap, the drug items were exposed to switching, planting and contamination while in transit.

The police officers, nonetheless, invoked "security reasons" to justify their failure to mark, inventory, and photograph the drug items at the situs criminis. Standing alone, such bare allegation should be rejected. What exactly these "security reasons" were and why the place of arrest was considered to be risky for marking and inventory or taking of photographs --- are material details which the arresting officers failed to present during the trial. In *People v. Lim*,^[58] it was held that "immediate physical inventory and photograph of the confiscated items at the place of arrest may be excused in instances when the safety and security of the apprehending officers and the witnesses required by law or of the items seized are threatened by immediate or extreme danger such as retaliatory action of those who have the resources and capability to mount a counter-assault." This principle was applied in *People v. Tampan*^[59] wherein one of the grounds in acquitting the accused therein was the arresting officers' failure to explain why the inventory and taking of photograph were not immediately done at the situs criminis, thus:

The physical inventory and photographing of the seized items were not executed immediately at the place of apprehension and seizure. While these procedures may be conducted at the nearest police station or at the nearest office of the apprehending officer/team, substantial compliance with Section 21 of R.A. No. 9165 may be allowed if attended with good and sufficient reason, a condition that was not met in this case. In *People v. Lim*, it has been held that "immediate physical inventory and photograph of the confiscated items at the place of arrest may be excused in instances when the safety and security of the apprehending officers and the witnesses required by law or of the items seized are threatened by immediate or extreme danger such as retaliatory action of those who have the resources and capability to mount a counter-assault." The apprehending officers in the present case undoubtedly did not show that the immediate physical inventory and photograph posed a threat on the safety and security of the police officers, or of the confiscated dangerous substance nor did they offer any other acceptable reason for not complying strictly with the requirement of immediate inventory and photograph at the place of arrest. x x x (Emphasis supplied)

Second. Only an elected official was present at the time of the inventory and taking of photograph. RA 9165, as amended, requires an elected public official and a representative of the National Prosecution Service or the media during inventory and taking of photographs.^[60] The law requires the presence of these witnesses primarily to ensure not only the compliance with the chain of custody rule but also remove any suspicion of switching, planting, or contamination of evidence.^[61]

People v. Sipin^[62] enumerated some of the valid justifications for non compliance with the witness requirement, viz:

The prosecution never alleged and proved that the presence of the required witnesses was not obtained for any of the following reasons, 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.

As it was, the arresting officers here did not even bother to explain why they only managed to secure a barangay kagawad to witness the inventory and taking of photographs. It is incumbent upon the prosecution to account for the absence of the other required witness, i.e. media representative or DOJ representative, by presenting a justifiable reason therefor, or at the very least, by showing that the apprehending officers truly exerted genuine and sufficient efforts to secure the presence of this witness or these witnesses.^[63]

In *People v. Lumumba*,^[64] the presence of only one witness, a media representative, during the inventory and taking of photographs was considered a breach of the first link. In that case, the arresting officers' explanation that the media representative was the only witness they could secure at that time because the elected barangay officials refused to participate, was not a justifiable ground for non-compliance of the requirement for the presence of the insulating witnesses. As stated, there was no attempt to even give an explanation in this case.

Third. Notably, the parties stipulated that PSI Rendielyn Sahagun was the forensic chemical officer who prepared Chemistry Report No. D-1297-2015 pursuant to the Request for Laboratory Examination. By reason of this stipulation, the parties agreed to dispense with her testimony.^[65]

People v. Cabuhay^[66] ordained that the parties' stipulation to dispense with the testimony of the forensic chemist should include:

In *People v. Pajarin*, the Court ruled that in case of q, stipulation by the parties to dispense with the attendance and testimony of the forensic chemist, it should be stipulated that the forensic chemist would have testified that he had taken the precautionary steps required to preserve the integrity and evidentiary value of the seized item, thus: (1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he resealed it after examination of the content; and (3) that he placed his own marking on the same to ensure that it could not be tampered with pending trial. (Emphasis supplied)

Here, the parties' stipulation to dispense with the testimony of the forensic chemist did not contain the vital pieces of information required in *Cabuhay*: i.e. PSI Sahagun received the seized drugs as marked, properly sealed, and intact; PSI Sahagun resealed the drug items after examination of the content; and, PSI Sahagun placed her own marking on the drug items --- thus leaving a huge gap in the chain of custody of the seized drugs. *People v. Ubungen*^[67] emphasized that stipulation on the testimony of a forensic chemist should cover the management, storage, and preservation of the seized drugs, thus:

Clear from the foregoing is the lack of the stipulations required for the proper and effective dispensation of the testimony of the forensic chemist. While the stipulations between the parties herein may be viewed as referring to the handling of the specimen at the forensic laboratory and to the analytical results obtained, they do not cover the manner the specimen was handled before it came to the possession of the forensic chemist and after it left her possession. Absent any testimony regarding the management, storage, and preservation of the illegal drug allegedly seized herein after its qualitative examination, the fourth link in the chain of custody of the said illegal drug could not be reasonably established. (Emphasis supplied)

Finally, the fourth link was also broken because of the absence of the testimony from any prosecution witness on how the drug items were brought from the crime laboratory and submitted in evidence to the court below. In *People v. Alboka*,^[68] the prosecution's failure to show who brought the seized items before the trial court was considered a serious breach of the chain of custody rule.

Indeed, the repeated breach of the chain of custody rule here had cast serious uncertainty on the identity and integrity of the corpus delicti. The metaphorical chain did not link at all, albeit it unjustly restrained appellant's right to liberty. Verily, therefore, a verdict of acquittal is in order.

Strict adherence to the chain of custody rule must be observed;^[69] the precautionary measures employed in every transfer of the seized drug item, proved to a moral certainty. The sheer ease of planting drug evidence vis-à-vis the severity of the impossible penalties in drugs cases compels strict compliance with the chain of custody rule.

We have clarified, though, that a perfect chain of custody may be impossible to obtain at all times because of varying field conditions.^[70] In fact, the Implementing Rules and Regulations of RA 9165 offers a saving clause allowing leniency whenever justifiable grounds exist which warrant deviation from established protocol so long as

the integrity and evidentiary value of the seized items are properly preserved.[71]

Here, the prosecution failed to substantiate their claim of "security reasons" in not immediately conducting the inventory and photograph at the situs criminis. Too, the prosecution failed to concretely establish how the forensic chemist managed, stored, and preserved the seized drugs. Also, the prosecution failed to establish who brought the seized items to the trial court. In fine, the condition for the saving clause to become operational was not complied with. For the same reason, the proviso "so long as the integrity and evidentiary value of the seized items are properly preserved," will not come to play either.

A point of emphasis. At least twelve years and one day of imprisonment is imposed for each count of unauthorized possession of dangerous drugs or unauthorized sale of dangerous drugs even for the minutest amount. It, thus becomes inevitable that safeguards against abuses of power in the conduct of buy-bust operations be strictly implemented. The purpose is to eliminate wrongful arrests and, worse, convictions. The evils of switching, planting or contamination of the corpus delicti under the regime of RA 6425, otherwise known as the "Dangerous Drugs Act of 1972," could again be resurrected if the lawful requirements were otherwise lightly brushed aside.[72]

As heretofore shown, the chain of custody here had been repeatedly breached many times over: the metaphorical chain, irreparably broken. Consequently, the identity and integrity of the seized drug item were not deemed to have been preserved. Perforce, appellants must be unshackled, acquitted, and released from restraint.

Suffice it to state that the presumption of regularity in the performance of official functions[73] cannot substitute for compliance and mend the broken links. For it is a mere disputable presumption that cannot prevail over clear and convincing evidence to the contrary.[74] And here, the presumption was amply overturned, nay, overthrown by compelling evidence on record of the repeated breach of the chain of custody rule.

ACCORDINGLY, the appeal is GRANTED. The assailed Decision dated September 29, 2017 in CA-G.R. CR HC No. 08530 is REVERSED and SET ASIDE. Appellants ROSELINE KASAN y ATILANO and HENRY LLACER y JAO are ACQUITTED of illegal sale of dangerous drugs in Criminal Case No. 15-3938. Further, appellant HENRY LLACER y JAO is also ACQUITTED of illegal possession of dangerous drugs in Criminal Case No. 15-3939.

The Superintendent of the Correctional Institution for Women, Mandaluyong City, Metro Manila is ordered to immediately RELEASE ROSELINE KASAN y ATILANO from detention unless she is being held in custody for some other lawful cause; and to REPORT to this Court her compliance within five (5) days from notice.

Likewise, the Superintendent of the New Bilibid Prisons, Muntinlupa City, Metro Manila is ordered to immediately RELEASE HENRY LLACER y JAO from detention unless he is being held in custody for some other lawful cause; and to REPORT to this Court his compliance within five (5) days from notice.

SO ORDERED.

Carpio, (Chairperson), Perlas-Bernabe, Caguioa, and J. Reyes, Jr., JJ., concur.

[1] Penned by Associate Justice Edwin D. Sorongon with the concurrence of Associate Justices Ramon R. Garcia and Maria Filomena D. Singh, members of the Thirteenth Division, rollo, pp. 2-12.

[2] Comprehensive Dangerous Drugs Act of 2002.

[3] RTC Record, pp. 2-3.

- [4] Id. at 6-7.
- [5] Id. at 45.
- [6] Id.
- [7] TSN, May 4, 2016, pp. 3-5 and pp. 24-25.
- [8] RTC Record, pp. 33-34.
- [9] Id. at 33.
- [10] Id.
- [11] Id.
- [12] Id.
- [13] Id.
- [14] Id.
- [15] Id.
- [16] Id.
- [17] Id. at 49-50.
- [18] Id. at 50.
- [19] Id. at 88-90.
- [20] Id. at 91-92.
- [21] Id. at 93-94.
- [22] Id. at 95.
- [23] Id. at 96-97.
- [24] Id. at 98.
- [25] Id. at 99.
- [26] Id. at 100.
- [27] Id. at 101.
- [28] Id. at 102.
- [29] Id. at 103-104.
- [30] Id. at 105-106.
- [31] Id. at 107-108.
- [32] Id. at 109-110.
- [33] Id. at 112.
- [34] TSN, May 25, 2016, pp. 4-5.

- [35] Id. at 5.
- [36] Id. at 7-8.
- [37] Id. at 8.
- [38] TSN, June 1, 2016, pp. 4-5.
- [39] Id. at 5-6.
- [40] Id. at 9.
- [41] Id. at 10.
- [42] Penned by Presiding Judge Edgardo M. Caldon, RTC Record, pp. 139-146.
- [43] Id. at 145-146.
- [44] CA rollo, pp. 43-44.
- [45] Id. at 73-78.
- [46] Id. at 92-96.
- [47] Id. at 39-43.
- [48] Id. at 43-44.
- [49] Id. at 73-78.
- [50] *People v. Barte*, 806 Phil. 533, 542 (2017).
- [51] *People v. Balibay*, 742 Phil. 746, 756 (2014).
- [52] *People v. Dahil*, 750 Phil. 212, 231 (2015).
- [53] *People v. Hementiza*, 807 Phil. 1017, 1026 (2017).
- [54] 724 Phil. 788, 810 (2014) (citations omitted).
- [55] RTC Record, p. 34.
- [56] G.R. No. 225690, January 17, 2018, citing *People v. Sanchez*, 590 Phil. 214, 241 (2008).
- [57] TSN, May 4, 2016, pp. 14-15.
- [58] G.R. No. 231989, September 4, 2018.
- [59] G.R. No. 222648, February 13, 2019.
- [60] Section 21, Article II of RA 9165, as amended by RA 10640.
- [61] *People v. Santos*, G.R. No. 236304, November 05, 2018.
- [62] G.R. No. 224290, June 11, 2018.
- [63] *People v. Reyes*, G.R. No. 238594, November 05, 2018.
- [64] G.R. No. 232354, August 29, 2018.
- [65] RTC Record, p. 50.

[66] G.R. No. 225590, July 23, 2018.

[67] G.R. No. 225497, July 23, 2018.

[68] G.R. No. 212195, February 21, 2018.

[69] *People v. Lim*, G.R. No. 231989, September 4, 2018.

[70] See *People v. Abetong*, 735 Phil. 476, 485 (2014).

[71] See Section 21 (a), Article II, of the IRR of RA 9165.

[72] *People v. Luna*, G.R. No. 219164, March 21, 2018.

[73] Section 3(m), Rule 131, Rules of Court

[74] See *People v. Cabiles*, G.R. No. 220758, June 07, 2017, 827 SCRA 89, 97.

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