

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAMAL RANGAIG Y AMPUAN, SAAD MAKAIRING Y LONTO, AND MICHAEL JUGUILON Y SOLIS, ACCUSED-APPELLANTS.

G.R. No. 240447. April 28, 2021

Ponente: LEONEN, J.

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LEONEN, J.:

No less than the Constitution mandates that no arrest, search and seizure can be made without a valid warrant issued by a competent judicial authority. While jurisprudence and statute have created exceptions allowing warrantless arrests founded on probable cause, if a warrantless arrest is conducted outside of these exceptions, any evidence resulting therefrom will be deemed inadmissible in court.

This resolves an Appeal[1] from the Court of Appeals Decision[2] which affirmed the Joint Decision[3] of the Regional Trial Court convicting Jamal Rangaig y Ampuan (Rangaig), Saad Makairing y Lonto (Makairing), and Michael Juguilon y Solis (Juguilon) of Possession of Dangerous Drugs and Possession of Dangerous Drugs during a Social Gathering, defined and penalized under Article II, Section 11 and 13, respectively, of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

Four separate Informations were filed charging Rangaig, Makairing and Juguilon with violations of Article II, Section 11 and 13 of Republic Act No. 9165 before the Regional Trial Court of Dagupan City.

The information for Criminal Case No. 2011-0295-D reads:

That on or about the 10[th] day of June 2011, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, JAMAL RANGAIG Y AMPUAN, SAAD MACAIRING Y LONTO, AND MICHAEL JUGUILON Y SOLIS, without authority of law, confederating together, acting jointly and helping one another, did then and there willfully, unlawfully and criminally possess dangerous drug [shabu] weighing 0.18 gram, contained in two (2) plastic sachets during a party or at a social gathering or meeting, or in proximate company of at least two persons.

Contrary to Art. II, Section 13, of R.A. 9165.[4]

Meanwhile, the information for Criminal Case No. 2011-0296-D against Makairing reads:

That on or about the 10[th] day of June 2011, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, SAAD MACAIRING Y LONTO did then and there willfully, unlawfully and criminally have in his possession, custody and control Methamphetamine Hydrochloride (Shabu) contained in one (1) heat-sealed plastic sachet, weighing more or less 0.08 gram, without authority to possess the same.

Contrary to Art. II, Section II of R.A. 9165.[5]

The third Information docketed as Criminal Case No. 2011-0297-D against Juguilon reads:

That on or about the 10[th] day of June 2011, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, MICHAEL JUGUILON Y SOLIS did then and there willfully, unlawfully and criminally have in his possession, custody and control Methamphetamine Hydrochloride (Shabu) contained in one (1) heat-sealed plastic sachet, weighing more or less 0.06 gram, without authority to possess the same.

Contrary to Art. II, Section 11 of R.A. 9165.[6]

The last Information docketed as Criminal Case No. 2011-0298-D against Rangaig reads:

That on or about the 10[th] day of June 2011, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, JAMAL RANGAIG Y AMPUAN did then and there willfully, unlawfully and criminally have in his possession, custody and control Methamphetamine Hydrochloride (Shabu) contained in one (1) heat-sealed plastic sachet, weighing more or less 0.17 gram, without authority to possess the same.

Contrary to Art. II, Section 11 of R.A. 9165.[7]

On arraignment, Rangaig, Makairing, and Juguilon all pleaded not guilty to the charges against them. Trial on the merits then ensued.[8]

Aside from documentary and object evidence, the prosecution presented the testimonies of PS/INSP. Myrna Malojo-Todeño (PSI Malojo-Todeño), PCI Saturnina Valenzuela (PCI Valenzuela), Rebecca Cabading (Cabading), P/Supt. Joseph Rizaldy Dalope (Major Dalope), SPO1 Salvador Cacho (SPO1 Cacho), SPO1 Bayani Bactad (SPO1 Bactad), SPO1 Irene Velasquez (SPO1 Velasquez), and PO2 Manuel Piapa Cruz (PO2 Cruz).[9] Their version of the events is as follows:

At around one o'clock in the afternoon of June 10, 2011, an asset informed the Chief Intel Officer of Dagupan City Police Station that there was an ongoing pot session in an abandoned nipa hut in Sitio Silungan, Bonuan Binloc, Dagupan City.[10]

During the briefing, Major Dalope, SPO1 Bactad, PO2 Cruz, SPO1 Marlon Decano and SPO1 Ian Carvajal were tasked to conduct a buy-bust operation. The officers proceeded to the abandoned nipa hut and PO2 Cruz, who was a few steps ahead of the group, noticed that the door of the nipa hut was slightly ajar. PO2 Cruz peeked through the door and saw three men inside, with two of the men holding aluminum foil. He then signaled his companions to come closer.[11]

Upon entering the house, PO2 Cruz and SPO1 Bactad saw Rangaig and Makairing sitting near a table with various paraphernalia such as foil, a lighter, tooter, and sachets on top of it. They also saw Juguilon near a small room.[12] PO2 Cruz immediately arrested Rangaig, Makairing, and Juguilon and informed them of their constitutional rights. SPO1 Bactad searched the three men and recovered one plastic sachet from each containing a substance suspected to be shabu.[13]

PO2 Cruz then gathered the items found on top of the table, placed them in a plastic bag, and marked them in the police station. The plastic sachets recovered from Rangaig, Makairing and Juguilon were marked by SPO1 Bactad and PO2 Cruz with "BB-A-1 06-10-11", "BB-A-2 06-10-11", and "BB-A-3 06-10-11" respectively. Meanwhile, the items recovered from the table were marked as "MP-A1" to "MP-12".[14]

PO2 Cruz and SPO1 Bactad likewise prepared and signed a Confiscation Receipt and a Joint Affidavit of Arrest. Witnesses Cabading and Alcantara also signed the Confiscation Report containing pictures of the accused and the marked items.[15] However, in Cabading's testimony, she revealed that she signed the Confiscation Receipt without having personal knowledge of how the operation was conducted and how the items mentioned in the

Confiscation Receipt were marked and laid on the table for its photographing.[16]

The items recovered and marked were then turned over to SPO1 Cacho who prepared the Letter Request for Laboratory Examination.[17] He took pictures of the marked items and returned them to PO2 Cruz and SPO1 Bactad.[18] Afterwards, PO2 Cruz and SPO1 Bactad brought the same marked items and letter request to the crime laboratory. Rangaig, Makairing and Juguilon were likewise brought to the crime laboratory.[19]

PSI Malojo-Todeño received the specimens and the letter request for laboratory examination. In Chemistry Report No. D-051-11L, she indicated that the specimens yielded a positive result for the presence of metamphetamine hydrochloride.[20] On the other hand, PCI Valenzuela, who conducted the qualitative examination on the urine samples of Rangaig, Makairing and Juguilon, also indicated in Chemistry Report No. CDT-030-2011-L that the samples yielded positive results for the presence of metamphetamine hydrochloride.[21]

For the defense, Rangaig, Makairing and Juguilon denied the allegations against them.[22]

According to Rangaig, he did not know Juguilon and Makairing before the incident in question. He recounted that at around two o'clock in the afternoon of June 10, 2011, he visited a store in Sitio Silungan to buy a C-2 drink. While buying, he was approached by a man, who later turned out to be Juguilon, to ask him if he knew a woman named "Ara." He answered in the negative, since he was not from the area.

Rangaig then noticed that a man wearing a bonnet and carrying a firearm, was looking at them.[23] He warned Juguilon about the dangerous-looking man who was approaching them and they ran towards a nearby house with a low gate located inside the compound. While hiding, he heard someone telling him to come out. Upon leaving his hiding place, the man with the bonnet appeared and pushed his firearm against Rangaig and told him to raise his hands. The man then told him to lie face down on the ground. Afterwards, the man tied his hands and brought him inside a vehicle where he saw the two people he had first seen by the store. The three of them were then brought to the police station and were ordered to enter a room which had a table with items on it. They were made to stand next to the table while pictures were taken of them. Rangaig only discovered that charges were made against them when a media personnel arrived to interview him.[24]

For his part, Juguilon testified that in the afternoon of June 10, 2011 he went to Sitio Silungan to look for his ex-girlfriend, Ara. He then approached two men, later identified as Makairing and Rangaig, at a store to ask if they knew Ara. At that moment, one of the men told them that there was a man in a bonnet walking towards them. Seeing that the man in a bonnet carried a firearm, Juguilon, Makairing and Rangaig rushed into a nearby house and locked the gate behind them.

Juguilon narrated that while hiding in the house, they heard the gate being destroyed. Thereafter, a man wearing shorts pointed a gun at him and told him not to run. The man in a bonnet then informed them that they were looking for people involved with drugs and began frisking him. The man in a bonnet then tied the hands of Makairing and Rangaig. Afterwards, the three of them were brought to a Medical Center where they were tested for alcohol, which tests came out negative. They were then brought to the Dagupan Police Station and asked to enter a small room that had a table with items on it. While there, pictures were taken of them next to the table.[25]

Lastly, Makairing narrated that in the afternoon of June 10, 2011, he noticed two men while buying soap at a store in Silungan. Suddenly, the two men started running which scared him and made him run with them to an unoccupied house. Upon entering, he saw a man in a bonnet who ordered everyone in the house to go out. The man in a bonnet then pointed a gun at him, tied his hands at his back, and made him lie face down on the ground. The same man showed him an identification card and asked if he knew that person. He answered in the negative. Afterwards, he was forced to board a vehicle and he saw Juguilon and Rangaig inside it. They were then brought

to the police station where he saw a table with plastic items on it.[26]

On June 22, 2016, the Regional Trial Court rendered a Joint Decision[27] convicting Rangaig, Makairing and Juguilon guilty of the crimes charged against them. The dispositive portion of the Joint Decision reads:

WHEREFORE, judgement is hereby rendered in:

1.

CRIM. CASE NO. 2011-0295-D finding accused JAMAL RANGAIG y Ampuan, SAAD MAKAIRING y Lonto and MICHAEL JUGUILON y Reyes GUILTY beyond reasonable doubt with Violation of Art. II, Sec. 13 in relation to Sec. 11 of R.A. 9165 otherwise known as the Dangerous Drugs Act of 2002 and each of them is sentenced to suffer the penalty of life imprisonment and to pay the fine in the amount of Five hundred thousand P500,000.00 pesos;

2.

CRIM. CASE NO. 2011-0296-D finding accused SAAD MAKAIRING y Lonto GUILTY beyond reasonable doubt with Violation of Art. II, Sec. 11 of R.A. 9165 otherwise known as the Dangerous Drugs Act of 2002 and is hereby sentenced to suffer imprisonment of Twelve (12) years and One (1) day to Twenty (20) years and to pay a fine in the amount of Three hundred thousand (P300,000.00) pesos;

3.

CRIM. CASE NO. 2011-0297-D finding accused MICHAEL JUGUILON y Reyes GUILTY beyond reasonable doubt with Violation of Art. II, Sec. 11 of R. A. 9165 otherwise known as the Dangerous Drugs Act of 2002 and is hereby sentenced to suffer imprisonment of Twelve (12) years and One (1) day to Twenty (20) years and to pay a fine in the amount of Three hundred thousand (P300,000.00) pesos;

4.

CRIM. CASE NO. 2011-0297-D finding accused JAMAL RANGAIG y Ampuan GUILTY beyond reasonable doubt with Violation of Art. II, Sec. 11 of R.A. 9165 otherwise known as the Dangerous Drugs Act of 2002 and is hereby sentenced to suffer imprisonment of Twelve (12) years and One (1) day to Twenty (20) years and to pay a fine in the amount of Three hundred thousand (P300,000.00) pesos;

The subject plastic sachets of shabu and the drug paraphernalia are hereby ordered disposed of in accordance of law.

SO ORDERED.[28] (Emphasis in the original)

The Regional Trial Court ruled that the prosecution sufficiently established the presence of all the elements required for the crimes of illegal possession of dangerous drugs and possession of dangerous drugs in a social gathering.[29] It further noted that the integrity and evidentiary value of the seized items were preserved to prove that they were the ones recovered from Rangaig, Makairing, and Juguilon.[30]

Aggrieved, Rangaig, Makairing, and Juguilon appealed before the Court of Appeals.

On January 15, 2018, the Court of Appeals affirmed the Regional Trial Court's Decision in toto. The dispositive portion of its Decision[31] reads:

WHEREFORE, the extant appeal is hereby DISMISSED.

The assailed Joint Decision dated 22 June 2016 rendered by the Regional Trial Court-Branch 44 of Dagupan City is AFFIRMED.

SO ORDERED.[32] (Emphasis in the original)

The Court of Appeals found that all the elements necessary for the crimes charged were proven by the prosecution and that the chain of custody of the seized illegal drugs was followed, in accordance with Section 21 of Republic Act No. 9165.

On January 29, 2017, Rangaig, Makairing and Juguilon filed a Notice of Appeal, which the Court of Appeals gave due course to on March 1, 2018. The records of the case were then elevated to this Court.[33]

On August 15, 2018, this Court required the parties to submit their respective supplemental briefs.[34]

On November 7, 2018, plaintiff-appellee People of the Philippines, through the Office of the Solicitor General,[35] filed a Manifestation stating that it would dispense with the filing of a supplemental brief and adopting instead the arguments in its Appellee's Brief. Similarly, accused-appellants filed their Manifestation in Lieu of Supplemental Brief.[36]

In their appellants' brief,[37] accused-appellants assert that the Regional Trial Court erred in convicting them of both possession of illegal drugs and possession of illegal drugs in a social gathering as this placed them in double jeopardy.[38] They likewise claim that the prosecution's evidence was not only inadmissible,[39] the prosecution also failed to establish an unbroken chain of custody of the seized items.[40]

On the other hand, the Solicitor General argues[41] that there was no violation of accused-appellants' right against double jeopardy, and that the items confiscated were validly seized incidental to a lawful arrest. Moreover, it claims that the proper chain of custody of the illegal drugs was observed.[42]

The following issues for this Court's resolution are:

First, whether or not the accused-appellants were placed in double jeopardy;

Second, whether or not there was a valid warrantless arrest and search against accused-appellants; and

Lastly, whether or not the chain of custody rule was complied with.

The Appeal is impressed with merit.

I

Accused-appellants were charged and found guilty of illegal possession of dangerous drugs and illegal possession of dangerous drugs in a social gathering, which are penalized under Republic Act No. 9165 Article II, Sections 11 and 13, respectively.

Accused-appellants assert that the charge of the possession of illegal drugs is absorbed in the charge of possession of illegal drugs in social gatherings. Thus, charging and eventually convicting them of both offenses, separately, placed them in double jeopardy. We agree.

The constitutional prohibition against double jeopardy is provided in Article II, Section 21 of the Constitution:

No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

This constitutional right is implemented in Rule 117, Section 7 of the Rules of Court which provides:

SECTION 7. Former conviction or acquittal; double jeopardy. — When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information. (Emphasis supplied)

Thus, the rule on double jeopardy protects the accused by prohibiting the state from charging or convicting a person of either the same offense or the same act. These two categories of double jeopardy is differentiated in *People v. Quijada*:^[43]

Thirdly, our Bill of Rights deals with two (2) kinds of double jeopardy. The first sentence of clause 20, section 1, Article II of the Constitution, ordains that "no person shall be twice put in jeopardy of punishment for the same offense." (italics in the original) The second sentence of said clause provides that "if an act is punishable by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act." Thus, the first sentence prohibits double jeopardy of punishment for the same offense whereas, the second contemplates double jeopardy of punishment for the same act. Under the first sentence, one may be twice put in jeopardy of punishment of the same act, provided that he is charged with different offenses, or the offense charged in one case is not included in, or does not include, the crime charged in the other case. The second sentence applies, even if the offenses charged are not the same, owing to the fact that one constitutes a violation of an ordinance and the other a violation of a statute. If the two charges are based on one and the same act, conviction or acquittal under either the law or the ordinance shall bar a prosecution under the other. .

..

Elsewise stated, where the offenses charged are penalized either by different sections of the same statute or by different statutes, the important inquiry relates to the identity of offenses charged. The Constitutional protection against double jeopardy is available only where an identity is shown to exist between the earlier and the subsequent offenses charged. The question of identity or lack of identity of offenses is addressed by examining the essential elements of each of the two offenses charged, as such elements are set out in the respective legislative definitions of the offenses involved.^[44] (Emphasis supplied, citations omitted)

The test of identity of offenses in ascertaining whether double jeopardy exists has been used by this Court as early as 1954 in *People v. F. Diaz*^[45] as cited in *Ivler v. Modesto-San Pedro*,^[46] thus:

In the case of *People v. F Diaz*, G.R. No. L-6518, prom. March 30, 1954, the accused was charged in the municipal court of Pasay City with reckless driving under sec. 52 of the Revised Motor Vehicle Law, for having driven an automobile in a 'fast and reckless manner . . . thereby causing an accident.' After the accused had pleaded not guilty the case was dismissed in that court 'for failure of the Government to prosecute'. But some time thereafter the city attorney filed an information in the Court of First Instance of Rizal, charging the same accused with damage to property thru reckless imprudence. The amount of the damage was alleged to be P249.50. Pleading double jeopardy, the accused filed a motion, and on appeal by the Government we affirmed the ruling. Among other things we there said through Mr. Justice Montemayor —

The next question to determine is the relation between the first offense of violation of the Motor Vehicle Law prosecuted before the Pasay City Municipal Court and the offense of damage to property thru reckless imprudence charged in the Rizal Court of First Instance. One of the tests of double jeopardy is whether or not the second offense charged necessarily includes or is necessarily included in the offense charged in the former complaint or information (Rule 113, Sec. 9). Another test is whether the evidence which proves one would prove the other that is to say whether the facts alleged in the first charge if proven, would have been sufficient

to support the second charge and vice versa; or whether one crime is an ingredient of the other[.][47]

Applying this, We now examine the elements of the two crimes charged against accused-appellants.

The elements for illegal possession of dangerous drugs under Section 11 of Republic Act No. 9165 require: (1) the possession by the accused of an item or object identified to be a prohibited or dangerous drug; (2) that such possession is not authorized by law; and (3) that accused freely and consciously possessed the drug. On the other hand, Section 13 of the same law, requires the presence of the exact same elements with an addition of a fourth element: that the accused possessed the prohibited or dangerous drug during a social gathering or meeting, or in the company of at least two persons.[48]

Evidently, a charge for illegal possession in a social gathering absorbs one for illegal possession, as the former includes all the necessary elements in the latter. Petitioners correctly cited *People v. Posada*,[49] which held that the sale of dangerous drugs absorbs the possession of it since all the elements of possession are inevitably integrated in its sale.

Since sale of dangerous drugs necessarily includes possession of the same, the accused-appellants should be convicted or possession. We have consistently ruled that possession of prohibited or dangerous drugs is absorbed in the sale thereof. Then Associate Justice Artemio Panganiban logically and clearly explained the rationale behind this ruling, to wit:

The prevailing doctrine is that possession of marijuana is absorbed in the sale thereof, except where the seller is further apprehended in possession of another quantity of the prohibited drugs not covered by or included in the sale and which are probably intended for some future dealings or use by the seller.

Possession is a necessary element in a prosecution for illegal sale of prohibited drugs. It is indispensable that the prohibited drug subject or the sale be identified and presented in court. That the corpus delicti of illegal sale could not be established without a showing that the accused possessed, sold and delivered a prohibited drug clearly indicates that possession is an element of the former. The same rule is applicable in cases of delivery of prohibited drugs and giving them away to another[.][50] (Citation omitted)

Here, just like in *Posada*, the violation of illegal possession of dangerous drugs is necessarily included in illegal possession of dangerous drugs in a social gathering. Thus, the prosecution erred when it filed separate informations for both charges, arguing that each charge pertain to separate and distinct sachets—a charge for illegal drugs in a social gathering for the clear plastic sachet found on the table, and another charge for possession of illegal drugs for the clear plastic sachets found in the pockets accused-appellants. The justification that the sachets found in the persons of accused-appellants were probably intended for some future dealing is purely conjecture and cannot stand.

Accordingly, charging and convicting the accused-appellants under Section 11, for illegal possession of dangerous drugs, and Section 13, for illegal possession of dangerous drugs in a social gathering, put them in double jeopardy.

As it stands, the acquittal of accused-appellants is in order. However, it is necessary to discuss the remaining issues regarding the conduct of the warrantless arrests, search and seizure, and observance of the chain of custody rule by the authorities for the guidance of bar and bench.

II

Significant in this case are the peculiarities surrounding the warrantless arrest of accused-appellants and the conduct of search and seizure that followed as they are certainly capable of repetition.

The general rule is that no arrest, search, and seizure can be made without a valid warrant issued by a competent judicial authority. This is because a person's right to be secure against unreasonable searches and seizures is sacred in this jurisdiction. It is enshrined in Article III, Section 2 of our Constitution which provides:

SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

This constitutional provision prevents violations of privacy and security in person and property, and protects against "unlawful invasion of the sanctity of the home, by officers of the law acting under legislative or judicial sanction, and to give remedy against such usurpations when attempted." [51] Thus, in conducting an arrest or search and seizure, there must be a warrant hinged on probable cause or the "actual belief or reasonable grounds of suspicion to believe that the accused has committed, or is committing a crime." [52] The suspicion must be "supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged." [53] Any evidence resulting from a violation of a person's right against unreasonable searches and seizures will be deemed inadmissible in court. [54]

Nevertheless, the wording of the constitutional provision leaves room for warrantless arrests or searches and seizures if deemed "reasonable". Rule 113, Section 5 of the Rules of Court provides the different circumstances when warrantless arrests may be found lawful:

SECTION 5. Arrest without warrant; when lawful. — A peace officer or a private person may, without a warrant, arrest a person:

- (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense:
- (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
- (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

The Regional Trial Court, as affirmed by the Court of Appeals, held that accused-appellants were arrested in flagrante delicto, under Section 5(a) of Rule 113. As such, the warrantless search and the seized items it yielded were deemed valid, being incidental to a valid arrest.

This Court disagrees.

Manibog v. People [55] explains that in valid warrantless arrests under Section 5(a) and (b), the arresting officer must have personal knowledge of the offense. Moreover, in in flagrante delicto arrests, the arresting officer must have personally witnessed the commission of the crime.

Two elements must concur for an in flagrante delicto arrest to be valid: (1) the person to be arrested is executing an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer. [56]

Here, there was no in flagrante delicto arrest.

PO2 Cruz stated that he was standing 10 meters away when he saw accused-appellants sitting by a table with clear

plastic sachets on top of it and other items, like foil and a tooter.[57] Nowhere in his testimony was it stated that any of the accused-appellants did an overt act showing their use of the illegal dangerous drugs or paraphernalia on the table. Moreover, it is hard to imagine that PO2 Cruz was able to identify items like clear sachets with miniscule amounts of white powder while peering from a slightly opened door ten meters away. From this narration, accused-appellants did not commit any suspicious acts which would engender the idea that they were indeed then and there committing or had just committed a crime.

Neither can the prosecution assert that Section 5(b) applies. This provision pertains to hot pursuit arrests which require that: (1) an offense has just been committed; and (2) that the arresting officer has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.[58]

The hot pursuit principle cannot apply in this case as PO2 Cruz and the rest of the buy-bust team had no personal knowledge that accused-appellants had just committed or were currently committing any violations. They also did not witness any overt act from the accused-appellants which led them to pursue them for a warrantless arrest. There was no probable cause to justify the barging of the buy-bust team into the nipa hut where accused-appellants were privately gathered, and their subsequent arrest of accused-appellants. Moreover, if it were not for the tip received from the confidential informant, the buy-bust team would not have proceeded to the disclosed location of accused-appellants in the first place.

Notably, this Court has held that an informant's tip is not sufficient as probable cause for warrantless arrests. In *People v. Yanson*,[59] We held that arrests and seizures cannot be based solely and exclusively on a tip. It be attended with other circumstances that will bring forth suspicion that a crime has been committed or is actually being committed.

Exclusive reliance on information tipped by informants goes against the very nature of probable cause. A single hint hardly amounts to "the existence of such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed and that the objects sought in connection with the offense are in the place to be searched." To maintain otherwise would be to sanction frivolity, opening the floodgates to unfounded searches, seizures, and arrests that may be initiated by sly informants. (Citation omitted)

In *People v. Martinez*,[60] where the authorities entered the house of the accused and arrested him on the basis of a tip that there was an on-going pot session, this Court held that tipped information is sufficient probable cause to effect warrantless search only in buy-bust operations or drugs in transit, but not enough to allow police officers to enter a house and effect arrest and seizure therein without a warrant.

Likewise, in *People v. Bolasa*,[61] this Court held that police officers who enter a house on the strength of a tip, without a warrant or prior surveillance, cannot be deemed to have conducted a valid warrantless arrest.

The manner by which accused-appellants were apprehended does not fall under any of the above-enumerated categories. Perforce, their arrest is illegal. First, the arresting officers had no personal knowledge that at the time of their arrest, accused-appellants had just committed, were committing, or were about to commit a crime. Second, the arresting officers had no personal knowledge that a crime was committed nor did they have any reasonable ground to believe that accused-appellants committed it. Third, accused-appellants were not prisoners who have escaped from a penal establishment.

....

On the contrary, it indicates that the apprehending officers should have conducted first a surveillance considering that the identities and address of the suspected culprits were already ascertained. After conducting the surveillance and determining the existence of probable cause for arresting accused-appellants, they should

have secured a search warrant prior to effecting a valid arrest and seizure. The arrest being illegal ab initio, the accompanying search was likewise illegal. Every evidence thus obtained during the illegal search cannot be used against accused-appellants; hence, their acquittal must follow in faithful obeisance to the fundamental law.[62] (Citation omitted)

Similarly, in this case, after receiving a tip from an informant, the police officers proceeded to the abandoned nipa hut without conducting any prior surveillance or verification of the facts given by the informant. There, PO2 Cruz peeked through the door of the hut which was slightly ajar and found the accused-appellants about ten meters away, sitting beside a table with what seemed to be a clear plastic sachet on it along with other paraphernalia, such as foil. This prompted PO2 Cruz to signal his teammates to enter the house and apprehend accused-appellants.

Lastly, this case cannot be considered a valid warrantless arrest under Section 5(c) as accused-appellants were not fugitives fleeing the custody of a penal establishment at the time of their apprehension.

Corollary to warrantless arrests, this Court in *Lapi v. People*,^[63] reiterated the different kinds of valid warrantless search and seizure, thus:

1. Warrantless search incidental to a lawful arrest recognized under Section 12. Rule 126 of the Rules of Court and by prevailing jurisprudence:
2. Seizure of evidence in "plain view"
-
3. Search of a moving vehicle. Highly regulated by the government, the vehicle's inherent mobility reduces expectation of privacy especially when its transit in public thoroughfares furnishes a highly reasonable suspicion amounting to probable cause that the occupant committed a criminal activity;
4. Consented warrantless search;
5. Customs search;
6. Stop and Frisk; and
7. Exigent and Emergency Circumstances."^[64]

The first type of valid warrantless search and seizure will not apply as there was no valid warrantless arrest to begin with.

Similarly, the second type of valid warrantless search and seizure known as seizure in plain view, does not apply in this case. The Plain View Doctrine is "usually applied where a police officer is not searching for evidence against the accused, but nonetheless inadvertently comes across an incriminating object[.]"^[65] To be valid, there must be a prior valid intrusion based on the valid warrantless arrest and, secondly, the evidence found must have been in plain view of the arresting officer and not inadvertently found.^[66]

In United States case law, the plain view doctrine cannot be applied in one's curtilage, or the area immediately surrounding a person's home or dwelling where one has a reasonable expectation of privacy.^[67] This gives emphasis to the sanctity of the home which is accorded special protection in line with the "'right of the people to be secure in their persons, houses, papers, and effects."^[68] The concept of curtilage was explained in *United States v. Dunn*,^[69] in this wise:

[C]urtilage questions should be resolved with particular reference to four factors: the proximity of the area claimed to be curtilage to the home, whether the area is included within an enclosure surrounding the home,

the nature of the uses to which the area is put, and the steps taken by the resident to protect the area from observation by people passing by. We do not suggest that combining these factors produces a finely tuned formula that when mechanically applied, yields a "correct" answer to all extent-of-curtilage questions. Rather, these factors are useful analytical tools only to the degree that, in any given case, they bear upon the centrally relevant consideration — whether the area in question is so intimately tied to the home itself that it should be placed under the home's "umbrella" of Fourth Amendment protection.

Thus, law enforcers may seize evidence and contraband that are in plain view, as long as the officer is in a place where he has a legal right to be, and the seizure does not involve entering one's home or curtilage.

Applied in this case, the fact that PO2 Cruz saw accused-appellants around a table through the slightly opened door of an abandoned nipa hut, in itself cannot be considered a violation of the sanctity of their home or curtilage as they could not have any expectation of privacy in their location. However, this does not change the fact that the buy-bust team were at the abandoned nipa hut on the strength of a single tip, without conducting prior surveillance. The plain view doctrine is only proper when the two requirements—a prior valid intrusion based on a valid warrantless arrest and that the evidence found was in plain view of the arresting officer—is met.

Here, the prosecution failed on the first requirement. There was no valid intrusion by the police officers as they did not have probable cause to enter the premises without a valid warrant of arrest or search warrant. It is apparent that PO2 Cruz's suspicion was anchored on the informant's tip they received earlier informing them of an on-going pot session in the area. Consequently, the act of peeping through an open door to ascertain what the accused-appellants were doing inside the house cannot be justified.

Illustrative is the case of *People v. Bolasa*,^[70] wherein the authorities proceeded to a certain house after being tipped off that Bolasa, among others, was packing drugs therein. After peeking through the window of the house and seeing a man and a woman packing marijuana, the police entered the house, arrested the two, and seized the drugs and paraphernalia. There, this Court held that the arrests and resulting searches and seizures were invalid as the arresting officers did not have personal knowledge of the criminal activities in the house. It was further held that "[n]either can it be said that objects were seized in plain view [as the] police officers intentionally peeped first through the window before they saw and ascertained the activities of accused-appellants inside the room."^[71]

Nevertheless, this Court has held that peeping into a window may be deemed "plain view" if the law enforcement officer had prior justification for being at the position. In *Miclat v. People*,^[72] it was explained:

Objects falling in plain view of an officer who has a right to be in a position to have that view are subject to seizure even without a search warrant and may be introduced in evidence. The "plain view" doctrine applies when the following requisites concur: (a) the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area; (b) the discovery of evidence in plain view is inadvertent; (c) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband or otherwise subject to seizure. The law enforcement officer must lawfully make an initial intrusion or properly be in a position from which he can particularly view the area. In the course of such lawful intrusion, he came inadvertently across a piece of evidence incriminating the accused. The object must be open to eye and hand and its discovery inadvertent[.]

It is clear, therefore, that an object is in plain view if the object itself is plainly exposed to sight. Since petitioners' arrest is among the exceptions to the rule requiring a warrant before effecting an arrest and the evidence seized from the petitioner was the result of a warrantless search incidental to a lawful arrest, which incidentally was in plain view of the arresting officer, the results of the ensuing search and seizure were admissible in evidence to prove petitioner's guilt of the offense charged."^[73] (Emphasis supplied, citation omitted)

Unlike this case, in *Miclat*, the police authorities knew the identity of the person connected to drug activities and conducted surveillance before making a valid warrantless arrest. Thus, they had a prior justification for being in a position within view of the criminal activity. Had PO2 Cruz and the buy bust team first conducted proper surveillance before proceeding with the warrantless arrest, the subsequent search and seizure may have fallen under the "plain view" doctrine.

As such, the prosecution here failed to establish by sufficient, clear and convincing evidence that there was probable cause to execute a warrantless arrest, and concomitantly seize the confiscated items. It is apparent from their narration that their arrest of the accused-appellants and search thereafter was fueled solely by the informant's tip. Apart from this, there is no evidence to show that the police officers had personal knowledge that would allow them to infer anything suspicious.

There being no valid warrantless arrest on accused-appellants, their arrest is illegal, and the ensuing search as a result thereof, is likewise illegal.[74] It must be noted that a person's right against unreasonable searches and seizures is constitutionally protected and must prevail over the campaign against illegal drugs. Warrantless arrests and seizures remain to be exceptions to the general rule and must be construed strictly against government agents.[75] Since there is no justification for the absence of an arrest warrant or search warrant upon the premises, the subsequent items obtained from the unreasonable search and seizure must be excluded in evidence for being the proverbial fruit of a poisonous tree.

The corpus delicti for the crimes charged presented into evidence by the prosecution is deemed inadmissible. Such inadmissibility then prevents conviction and calls for the immediate acquittal of the accused-appellants.[76]

III

Further, even if the seized items are deemed admissible, the prosecution's case would still fail for violating the chain of custody rule.

In all cases involving dangerous drugs, great importance is put in ensuring that the identity and integrity of the corpus delicti, the drug itself, remains intact. This is due to the delicate nature of dangerous drugs and its susceptibility to being altered or tampered. This was elucidated in *People v. Jaafar*: [77]

Narcotic substances are not readily identifiable. To determine their composition and nature, they must undergo scientific testing and analysis. Narcotic substances are also highly susceptible to alteration, tampering, or contamination. It is imperative, therefore, that the drugs allegedly seized from the accused are the very same objects tested in the laboratory and offered in court as evidence. . . . [78] (Citations omitted)

It is also the vulnerability of dangerous drugs and the confidential manner by which it is produced and distributed which makes it a target of abuse by authorities during anti-narcotics operations, as explained in *People v. Saragena*: [79]

There is great possibility of abuse in drug cases, especially those involving miniscule amounts. This Court has recognized that buy-bust operations could be initiated based on dubious claims of shady persons, or that small amounts of illicit drugs could be planted as evidence on innocent individuals, in view of the secrecy surrounding drug deals in general. Thus:

"[B]y the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the case 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[.][80] (Citation omitted)

Thus, to prevent any mishandling of the prohibited drug once it is confiscated, the rules on chain of custody were enacted in Section 21 of Republic Act No. 9165, as amended, which provides:

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

(1) The apprehending team having initial custody and control of the drugs shall immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: 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.

This ensures that every link from the moment the dangerous drug is seized from the accused, until it is presented before the judge is accounted for. Any break or disruption in the chain would cast doubt on the identity and integrity of the seized item. Thus, it is essential for the prosecution to establish with moral certainty that the drug presented in court is the same drug confiscated from the accused.[81] Failure to do so would render the evidence against the accused insufficient, resulting in an acquittal.[82]

Here, the prosecution miserably failed to establish that the police officers complied with the requirements laid down in Section 21.

First, the marking of evidence was not done immediately upon confiscation of the items from the accused-appellants. Records show that after SPO1 Bactad seized one clear plastic sachet from each of them, he did not mark any of it before putting them in his pants pockets.[83] Similarly, PO2 Cruz did not mark the paraphernalia found on top of the table before putting them in a plastic. The marking was only done at the police station.

Due to these sequence of events, it cannot be said that the sachets were accurately marked. This is especially important for the criminal charges pertaining to the individual possession of dangerous drugs by each accused-appellant, as it cannot be determined from whom each sachet was confiscated. This immediately casts doubt on the identity of the seized objects from its seizure, the first link in the chain of custody.

Aside from this, marking and inventory were not done in the presence of the required witnesses, namely, representatives from the Department of Justice, a Barangay Kagawad, and a media representative. While Cabading and Alcantara signed the Confiscation Receipt, Cabading manifested that she was not present during the marking, inventorying, and photographing of the items.[84] These are unacceptable lapses by the police authorities cause another break in the chain of custody.

This Court has established that an "ostensibly approximate compliance"[85] to Section 21 of Republic Act. No. 9165 will not suffice to reach a conviction. It bears reiterating that each link of the chain of custody of the seized drug must be accounted for to show there was no "tampering, alteration, or substitution, may it be by accident or otherwise." [86] The chain of custody rule requires actual compliance to prove with moral certainty the corpus

delicti of the crime charged. Seeing as the prosecution neither established the identity of the seized items in each link of the chain of custody, nor preserved its integrity, accused-appellants must be acquitted.

We reiterate our statements in *People v. Holgado*,^[87]

It is lamentable that while our dockets are clogged with prosecutions under Republic Act No. 9165 involving small-time drug users and retailers, we are seriously short of prosecutions involving the proverbial "big fish." We are swamped with cases involving small fry who have been arrested for miniscule amounts. While they are certainly a bane to our society, small retailers are but low-lying fruits in an exceedingly vast network of drug cartels. Both law enforcers and prosecutors should realize that the more effective and efficient strategy is to focus resources more on the source and true leadership of these nefarious organizations. Otherwise, all these executive and judicial resources expended to attempt to convict an accused for 0.05 gram of shabu under doubtful custodial arrangements will hardly make a dent in the overall picture. It might in fact be distracting our law enforcers from their more challenging task: to uproot the causes of this drug menace. We stand ready to assess cases involving greater amounts of drugs and the leadership of these cartels.^[88]

This case was riddled by procedural infirmities from the moment the accused-appellants were apprehended to the moment the gavel was struck to convict them. While this court laments the proliferation of the use and distribution of illegal substances, it cannot support the haphazard and shoddy execution of government agents of their official tasks. We remind our police officers, as well as officers of the Court, that the constitutionally protected rights of the people must always prevail.

WHEREFORE, premises considered, the January 15, 2018 Decision of the Court of Appeals in CA-G.R. CR-HC No. 08489 is REVERSED and SET ASIDE. Accused-Appellants Jamal Rangaig y Ampuan, Saad Makairing y Lonto, and Michael Juguilon y Solis are hereby ACQUITTED for failure of the prosecution to prove their guilt beyond reasonable doubt and are ordered immediately RELEASED from detention, unless they are confined for any other lawful cause.

Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director General of the Bureau of Corrections is directed to report to this court, within five (5) days from receipt of this Decision, the action he has taken. Copies shall also be furnished to the Police General of the Philippine National Police and the Director General of Philippine Drug Enforcement Agency for their information.

The Regional Trial Court is also ordered to turn over the shabu subject of this case to the Dangerous Drugs Board for destruction in accordance with law.

SO ORDERED.

Perlas-Bernabe,^[*] Hernando, Lazaro-Javier,^{[*][*]} and Inting, JJ., concur.

[*] Designated additional Member per Raffle dated November 11, 2020.

[*][*] Designated additional Member per Raffle dated February 17, 2021.

[1] Rollo, pp. 19-20.

[2] Id. at 2-18. The January 15, 2015 Decision in CA-G.R. CR-HC No. 08489 was penned by Associate Justice Priscilla J. Baltazar-Padilla, and concurred in by Associate Justice Nina G. Antonio-Valenzuela and Pedro B. Corales of the Nineteenth Division of the Court of Appeals, Cebu City.

[3] CA rollo, pp. 62-77. The Joint Decision in Criminal Case Nos. 2011-0295-D to 2011-0298-D was penned by Judge Genoveva Coching-Maramba of the Regional Trial Court of Dagupan City, Branch 44.

[4] Rollo, pp. 2-3.

[5] Id. at 3.

[6] Id.

[7] Id.

[8] Id. at 4.

[9] CA rollo, p. 65.

[10] Id. at 67.

[11] Id.

[12] Id. at 67.

[13] Id. at 68.

[14] Id.

[15] Id.

[16] Id. at 66.

[17] Id. at 67.

[18] Id.

[19] Id. at 69.

[20] Id. at 15 and 65.

[21] Id. at 66.

[22] Id. at 69.

[23] Id. at 70.

[24] Id. at 71.

[25] Id. at 69.

[26] Id. at 70.

[27] Id. at 62-77.

[28] Id. at 77.

[29] Id. at 72.

[30] Id. at 73.

[31] Rollo, pp. 2-18.

[32] Id. at 18.

- [33] Id. at 19-22.
- [34] Id. at 24.
- [35] Id. at 26-27.
- [36] Id. at 40-41.
- [37] CA rollo, pp. 35-60.
- [38] Id. at 38.
- [39] Id.
- [40] Id. at 39.
- [41] Id. at 88-109.
- [42] Id. at 97.
- [43] 328 Phil. 505 (1996) [Per J. Regalado, En Banc].
- [44] Id. at 557-558.
- [45] 94 Phil. 714 (1954) [Per J. Montemayor, En Banc].
- [46] 649 Phil. 478 (2010) [Per J. Carpio, Second Division].
- [47] Id. at 500-501.
- [48] People v. Pavia y Paliza, 750 Phil. 871 (2015) [Per J. Perez, First Division].
- [49] 684 Phil. 20 (2012) [Per J. Reyes, Second Division].
- [50] Id. at 43.
- [51] Nala v. Barroso, Jr., 455 Phil. 999, 1007 (2003) [Per J. Ynares-Santiago, First Division].
- [52] People v. Martinez, 652 Phil. 347, 365 (2010) [Per J. Mendoza, Second Division]
- [53] Id. at 363.
- [54] CONST., art. III, sec. 3(2).
- [55] G.R. No. 211214, March 20, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65164>> [Per J. Leonen, Third Division].
- [56] People v. Cogaed, 740 Phil. 212, 238 (2014) [Per J. Leonen, Third Division].
- [57] CA rollo, p. 47.
- [58] People v. Comprado, G.R. No. 213225, April 4, 2018, 860 SCRA 420 [Per J. Maritres, Third Division].
- [59] G.R. No. 238453, July 31, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65605>> [Per J. Leonen, Third Division].
- [60] 652 Phil. 347 (2010) [Per J. Mendoza, Second Division].
- [61] 378 Phil. 1073 (1999) [Per J. Bellosillo, Second Division].

[62] Id. at 1079-1080.

[63] G.R. No. 210731, February 13, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64967>> [Per J. Leonen, Third Division].

[64] Id. citing *People v. Aruta*, 351 Phil. 868 (1998) [Per J. Romero, Third Division].

[65] *People v. Calantiao*, 736 Phil. 661, 672 (2014) [Per J. Leonardo-De Castro, First Division].

[66] *People v. Bolasa*, 378 Phil. 10731 (1999) [Per J. Bellosillo, Second Division].

[67] *United States v. Dunn*, 480 U.S. 294 (1987).

[68] CONST., art. III, sec. 2.

[69] 480 U.S. 294 (1987).

[70] 378 Phil. 1073 (1999) [Per J. Bellosillo, Second Division].

[71] Id. at 1080.

[72] 672 Phil. 191 (2011) [Per J. Peralta, Third Division].

[73] Id. at 206-207.

[74] *People v. Martinez*, 652 Phil. 347 (2010) [Per J. Mendoza, Second Division].

[75] *People v. Comprado*, G.R. No. 213225, April 4, 2018, 860 SCRA 420 [Per J. Maritres, Third Division].

[76] Id.

[77] 803 Phil. 582 (2017) [Per J. Leonen, Second Division].

[78] Id. at 591.

[79] 817 Phil. 117 (2017) [Per J. Leonen, Second Division].

[80] Id. at 128-129.

[81] *People v. De Dios*, G.R. No. 243664, January 22, 2020 <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65834>> [Per J. Perlas-Bernabe, Second Division].

[82] Id.

[83] CA rollo, p. 54.

[84] Id. at 66.

[85] *People v. Holgado*, 741 Phil. 78, 94 (2014) [Per J. Leonen, Third Division].

[86] *Villasana v. People*, G.R. No. 209078, September 4, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65712>> [Per J. Leonen, Third Division].

[87] 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

[88] Id. at 100.

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