

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE RASOS, JR. Y PADOLLO @ “JOSE”; ACCUSED-APPELLANT.

G.R. No. 243639. September 18, 2019

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CAGUIOA, J:

Given the very nature of the anti-illegal drugs campaign, the nature of entrapment and buy-bust operations, the usual practice of utilizing unreliable characters as informants, and the great ease by which drug specimen can be planted in the pockets or hands of unsuspecting persons, most of whom come from the marginalized sectors of society, the propensity for police abuse is great. This is precisely why the innocent is provided refuge under the protective mantle of the law – through the mandatory requirements laid down in Republic Act No. 9165, as amended. The instant case is yet another example of how the lowly, through the majesty of the law, triumphs over the daunting and all-powerful prosecutorial power of the State.

The Case

Before the Court is an ordinary appeal[1] filed by accused-appellant Jose Rasos, Jr. y Padollo @ "Jose" (Rasos, Jr.), assailing the Decision[2] dated July 27, 2018 (assailed Decision) of the Court of Appeals[3] (CA) in CA-G.R. CR-H.C. No. 09737, which affirmed the Judgment[4] dated July 14, 2017 rendered by the Regional Trial Court of Manila, Branch 20 (RTC) in Criminal Case Nos. 15-319894 and 15-319895, entitled *People of the Philippines v. Jose Rasos, Jr. y Padollo @ "Jose "*, finding Rasos, Jr. guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,[5] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," as amended. Rasos, Jr. was acquitted of the charge of violating Section 11, Article II of RA 9165 on the ground of reasonable doubt.

The Facts and Antecedent Proceedings

As narrated by the CA in the assailed Decision, and as culled from the records of the instant case, the essential facts and antecedent proceedings of the instant case are as follows:

In two (2) separate Informations filed before the RTC of Manila, [Rasos, Jr.] was charged with violations of Section 5 and Section 11, Article II of R.A. No. 9165 committed as follows:

Criminal Case No. 15-319894

That on or about September 12, 2015, in the City of Manila, Philippines, the said accused, not being authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell, or offer for sale one (1) heat-sealed transparent plastic sachet containing ZERO POINT ZERO SIX ONE (0.061) [gram] of white crystalline substance marked as "JRP" known as "SHABU" containing methamphetamine hydrochloride, a dangerous drug.

Contrary to law.

Criminal Case No. 15-319895

That on or about September 12, 2015, in the City of Manila, Philippines, the said accused, not having been authorized by law to possess any dangerous drug, did then and there willfully, unlawfully, and knowingly have in his possession and under his custody and control one (1) heat-sealed transparent plastic sachet containing white crystalline substance weighing ZERO POINT ZERO NINE EIGHT (0.098) gram of methamphetamine hydrochloride marked as "JRP-1", otherwise known as "SHABU", a dangerous drug.

Contrary to law.

Upon arraignment on October 8, 2015, [Rasos, Jr.], with the assistance of counsel, pleaded not guilty to the crimes charged.

Trial on the merits ensued thereafter.

The prosecution presented four (4) witnesses, namely: poseur-buyer PO2 Jesse Garchitorena [(PO2 Garchitorena)]; back-up operative PO2 Eric de Guzman [(PO2 De Guzman)]; police investigator PO2 Bernie Rusiana; and Police Inspector Jeffrey Reyes, a forensic chemist at the Manila Police District Crime Laboratory Office.

The testimony of PI Jeffrey Reyes was dispensed with after both parties agreed to stipulate on the following: (a) his qualification as an expert forensic chemical officer; (b) the receipt of the letter-request for laboratory examination, together with the two (2) heat-sealed plastic sachets marked as "JRP" and "JRP1"; (c) he conducted a qualitative examination on the said specimens; (d) the result of his examination was reflected in Chemistry Report No. D-882-15 dated September 12, 2015; and (e) he submitted the said pieces of evidence to the court on February 18, 2016.

The version of the prosecution may be summarized as follows:

In the evening of September 11, 2015, a confidential asset reported to the Station Anti-Illegal Drugs-Special Operation Task Unit (SAID-SOTU) of the Manila Police District-Ermita Police Station (PS-5), the illegal drug trade activity of [Rasos, Jr.] along L. Guerrero St., Ermita, Manila. Immediately thereafter, a buy-bust team was formed to entrap [Rasos, Jr.], with SPO4 Rowell Robles as team leader and PO2 Garchitorena as poseur-buyer, together with six (6) other police officers as back-up operatives. A Pre-Operation Report and Authority to Operate were sent to the Philippine Drug Enforcement Agency (PDEA). Upon receipt of the documents, the PDEA faxed Control No. 10001-042015-0154 authorizing the buy-bust team to proceed with the operation. During the briefing, poseur-buyer PO2 Garchitorena was given two (2) pieces of P100 bill bearing his initials "JC" to be used as buy-bust money. It was agreed that PO2 Garchitorena will remove his cap after the sale transaction.

At 3:00 o'clock in the morning of September 12, 2015, PO2 Garchitorena and the confidential informant proceeded to the target area on board a motorcycle while the rest of the team strategically positioned themselves nearby. PO2 Garchitorena and the confidential informant alighted from the motorcycle then walked towards [Rasos, Jr.]. Upon seeing the confidential informant, [Rasos, Jr.] approached them. After a short conversation, the confidential informant introduced PO2 Garchitorena to [Rasos, Jr.] as a buyer of shabu. Noticing the big physique of PO2 Garchitorena, [Rasos, Jr.] asked him, "Ano ito? Gagamitin mo pampayat?" [Rasos, Jr.] answered, "Hindi bibili lang ako panggamit, dalawang tarya". [Rasos, Jr.] then pulled out from his pocket two (2) plastic sachets of shabu. PO2 Garchitorena gave the two (2) pieces of P100 bill to [Rasos, Jr.]. [Rasos, Jr.] made PO2 Garchitorena choose between the two (2) plastic sachets of shabu. After PO2 Garchitorena picked one (1) plastic sachet of shabu, [Rasos, Jr.] placed the money and the remaining plastic sachet in his pocket. At the conclusion of the transaction, PO2 Garchitorena removed his cap which was the pre-arranged signal to his teammates that the sale has already been consummated. Seeing this, the back-up operatives rushed to the crime scene, introduced themselves as police officers and effected the arrest of [Rasos,

Jr.]. PO2 Garchitorena directed [Rasos, Jr.] to empty his pockets, to which he obliged. As a result thereof, the two (2) pieces P100 bill buy-bust money and a plastic sachet of shabu was recovered from [Rasos, Jr.]. As the rain then started to pour, the team decided to conduct the marking and inventory of the seized evidence at the police station. PO2 Garchitorena held in his custody the two (2) plastic sachets of shabu until it was brought to the police station.

At the police station, PO2 Garchitorena marked the two (2) plastic sachets as "JRP" and "JRP-1". He also prepared an Inventory of the Property Seized in the presence of [Rasos, Jr.], with a certain Robert Amoroso, a member of the MPD Press Corps, signing the inventory as a witness. [Rasos, Jr.] together with the plastic sachet and buy-bust money, was also photographed. The police officers likewise prepared the Booking Sheet and Arrest Report of [Rasos, Jr.] All the pieces of evidence were then turned over to police investigator PO2 Bernie Rusiana. Thereafter, Station Commander Police Superintendent Albert Barot signed the letter-request dated September 12, 2015 addressed to the MPD Crime Laboratory Office to determine the presence of any form of dangerous drugs in the items seized from [Rasos, Jr.]. PO2 Garchitorena delivered the letter-request and the specimens to the MPD Crime Laboratory Office which were received by PI Jeffrey Reyes, a forensic chemist, at 3:25 p.m. of September 12, 2015 as shown by the rubber stamped delivery receipt on the letter.

In Chemistry Report No: D-882-15 dated September 12, 2015, PI Reyes found that the plastic sachet marked as "JRP" weighing zero point zero six one (0.061) gram as well as the other plastic sachet marked as "JRP-1" weighing zero point zero nine eight (0.098) gram, both tested positive for methamphetamine hydrochloride or shabu.

For the defense, [Rasos, Jr.] and his live-in partner Sanilyn Rasos were presented as witnesses.

[Rasos, Jr.] offered the defenses of denial and extortion. He alleged that at 3:00 a.m. of September 12, 2015, he was soundly sleeping at his house when several men in civilian clothes who introduced themselves as police officers, suddenly stormed inside and arrested him. [Rasos, Jr.] was brought to Police Station 5 where he was placed in a detention cell. He was shocked when the police officers showed him the two (2) plastic sachets of shabu that were allegedly confiscated from him. It was only a day after his arrest that he learned that he had been charged with violations of Sections 5 and 11 of R.A. No. 9165.

Sanilyn Rasos testified that she and [Rasos, Jr.] were asleep in their room at the second floor of their house when two (2) men in civilian clothes barged in and ordered them to go downstairs. [Rasos, Jr.] was handcuffed and bodily searched but nothing was recovered from him. She came to know that [Rasos, Jr.] was arrested because a confidential informant reported him to be selling shabu. Before proceeding to the police station, a police officer demanded from her P5,000.00 for [Rasos, Jr.'s] freedom. As she was unable to produce the said amount, the charges of illegal sale and possession of dangerous drugs were pursued against [Rasos, Jr.].^[6]

The Ruling of the RTC

On July 14, 2017, the RTC rendered a Judgment convicting Rasos, Jr. for committing illegal sale of dangerous drugs under Section 5, Article II of RA 9165. With respect to illegal possession of dangerous drugs under Section 11, Article II of RA 9165, the RTC acquitted Rasos, Jr. on the ground of reasonable doubt.

The dispositive portion of the RTC's Judgment reads:

Premises considered[,] in Criminal Case No. 15-319894, the Court finds the accused Jose Rasos y Padollo GUILTY beyond reasonable doubt of the offense of violation of Section 5, RA 9165 and hereby imposes on him the penalty of LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00).

On the ground of reasonable doubt, accused Jose Rasos y Padollo is ACQUITTED of the charge of violation of Section 11, RA 9165 in Criminal Case No. 15-319895.

The ZERO POINT ZERO SIX ONE (0.061) gram of shabu and ZERO POINT ZERO NINE EIGHT (0.098) gram of shabu subject of the instant criminal cases are ordered confiscated in favor of the government.

SO ORDERED.[7]

The RTC found that "[s]ave for their barren allegations that [Rasos, Jr.] was arrested inside his house, [Rasos, Jr.] and his partner have not presented convincing evidence to prove the same, x x x The testimony of the poseur[-buyer] clearly established that [Rasos, Jr.] offered for sale to the poseur[-buyer] two plastic sachets of shabu albeit only one was purchased by the latter." [8]

Feeling aggrieved, Rasos, Jr. filed an appeal before the CA.

The Ruling of the CA

In the assailed Decision, the CA affirmed the RTC's conviction of Rasos, Jr. The dispositive portion of the assailed Decision reads:

WHEREFORE, premises considered, the instant appeal is hereby DENIED. The Judgment dated July 14, 2017 of the Regional Trial Court, Branch 20, Manila is AFFIRMED.

SO ORDERED.[9]

The CA held that "[a]fter a thorough and careful review of the records, [the CA] was convinced that the prosecution has sufficiently proven beyond reasonable doubt [Rasos, Jr.'s] guilt of illegal sale of dangerous drugs." [10]

Hence, the instant appeal.

Issue

Stripped to its core, for the Court's resolution is the issue of whether the RTC and CA erred in convicting Rasos, Jr. for violating Section 5, Article II of RA 9165.

The Court's Ruling

The appeal is meritorious. The Court acquits Rasos, Jr. for failure of the prosecution to prove his guilt beyond reasonable doubt.

Rasos, Jr. was charged with the crime of illegal sale of dangerous drugs, defined and penalized under Section 5, Article II of RA 9165.

In order to convict a person charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution is required to prove the following elements: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor. [11]

In cases involving dangerous drugs, the State bears not only the burden of proving these elements, but also of proving the corpus delicti or the body of the crime. In drug cases, the dangerous drug itself is the very corpus delicti of the violation of the law. [12] While it is true that a buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors, [13] the law nevertheless also requires strict compliance with procedures laid down by it to ensure that rights are safeguarded.

In this connection, Section 21, [14] Article II of RA 9165, which was amended by RA 10640 [15] in 2014, lays down the procedure that police operatives must follow to maintain the integrity of the confiscated drugs used as evidence.

The said provision requires that: (1) the seized items be inventoried and photographed at the place of seizure or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable; (2) the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, and (c) a representative of the National Prosecution Service (NPS) or the media; and (3) the accused or his/her representative and all of the aforesaid witnesses shall be required to sign the copies of the inventory and be given a copy thereof.

The strict observance of the aforesaid requirements is a necessity because, with "the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets of or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great." [16]

The Court cannot stress enough that the presence of the required witnesses at the time of the inventory and photographing of the seized evidence is mandatory, and that the law imposes the said requirement because their presence serves an essential purpose. In *People v. Tomawis*, [17] the Court elucidated on the purpose of the law in mandating the presence of the required witnesses as follows:

The presence of the witnesses from the DOJ, media, and from public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug. Using the language of the Court in *People v. Mendoza*, [18] without the insulating presence of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drugs, the evils of switching, "planting" or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA No. 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the subject sachet that was evidence of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused.

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

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

To restate, the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs "immediately after seizure and confiscation." [19] (Emphasis supplied)

Concededly, Section 21 of RA 9165, as amended, provides 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." [20]

In connection with the foregoing, jurisprudence has held that breaches of the procedure outlined in Section 21 committed by the police officers, left unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt against the accused as the integrity and evidentiary value of the corpus delicti would

necessarily have been compromised.[21] As the Court explained in *People v. Reyes*: [22]

Under the last paragraph of Section 21 (a), Article II of the IRR of R.A. No. 9165, a saving mechanism has been provided to ensure that not every case of non-compliance with the procedures for the preservation of the chain of custody will irretrievably prejudice the Prosecution's case against the accused. To warrant the application of this saving mechanism, however, the Prosecution must recognize the lapse or lapses, and justify or explain them. Such justification or explanation would be the basis for applying the saving mechanism. Yet, the Prosecution did not concede such lapses, and did not even tender any token justification or explanation for them. The failure to justify or explain underscored the doubt and suspicion about the integrity of the evidence of the corpus delicti. With the chain of custody having been compromised, the accused deserves acquittal, x x x.[23] (Emphasis supplied)

In the Guidelines on the Implementing Rules and Regulations of Section 21 of Republic Act No. 9165 as amended by Republic Act No. 10640 (IRR Guidelines), it is also required that "[a]ny justification or explanation in cases of noncompliance with the requirements of Section 21(1) of RA No. 9165, as amended, shall be clearly stated in the sworn statements/affidavits of the apprehending/seizing officers." [24]

Simply stated, the law mandates that (1) if there are no justifiable grounds offered by the police when the requirements under Section 21 of RA 9165 are not complied with, or (2) even if there are justifiable grounds that warrant the non-compliance of the requirements under Section 21 of RA 9165, but such grounds were not clearly stated in the sworn statements/affidavits of the apprehending/seizing officers: such non-compliance shall render void and invalid the seizures and custody over seized items.

Applying the foregoing in the instant case, it is not disputed that the authorities failed to comply with Section 21 of RA 9165 when they conducted the subject buy-bust operation. As readily admitted by the CA in the assailed Decision, "the arresting officers may not have strictly complied with requirements of Section 21, Article II of RA No. 9165." [25]

First, it is undisputed that there was no elected official who witnessed the inventory of the alleged seized evidence and the photographing of the same.

To reiterate, under Section 21 of RA 9165, as amended, aside from a representative of the NPS or the media, it is mandatory that an elected public official is there to witness the physical inventory of the alleged seized items and the photographing of the same.

A careful review of the records shows that the testimonies of the prosecution's witnesses do not offer any justifiable reason why the presence of an elected public official was not obtained. Worse, the prosecution's witnesses failed to acknowledge or recognize the failure to secure the presence of an elected public official.

To stress, breaches of Section 21 committed by the authorities, if left unacknowledged and unexplained, militate against a finding of guilt beyond reasonable doubt against the accused as the integrity and evidentiary value of the corpus delicti would necessarily have been compromised.

While it is true that the Joint Affidavit of Complaint and Apprehension dated September 12, 2015 (Joint Affidavit) executed by PO2 Garchitorea and PO2 De Guzman states that the authorities sought "the assistance of the barangay officials to witness the inventory but to no avail," [26] such cannot be considered compliance with the abovementioned rule that non-observance of rules under Section 21 shall be clearly stated in the sworn statements/affidavits of the apprehending/seizing officers.

Needless to say, the said statement does not proffer any explanation as to why the seeking of assistance from barangay officials was "to no avail." The Court cannot take cognizance of such hollow excuse that is not even

supported by even a semblance of elucidation.

Further, the IRR Guidelines likewise state that "[t]he elected public official is any incumbent public official regardless of the place where he/she is elected." [27] Hence, the authorities are not limited to seeking assistance from local barangay officials. Therefore, the authorities' allegation in the Joint Affidavit that they failed to secure the assistance of local barangay officials is a lame and unconvincing excuse that deserves scant consideration.

To simply dismiss the mandatory requirement of the presence of elected public officials as witnesses to buy-bust operations as a trivial and excusable requirement would be to negate the clear legislative intent of Section 21 of RA 9165, as amended.

To recall, prior to the amendment of Section 21 of RA 9165 under RA 10640 in 2014, the following witnesses were required to witness buy-bust operations: (1) the accused or his/her representative or counsel, (2) an elected public official, (3) a representative from the media, and (4) a representative from the Department of Justice (DOJ).

However, in order to prevent the dismissal of drug cases due to the failure of law enforcers to follow the stringent requirements of Section 21 Congress saw fit to reduce the required witnesses to: (1) the accused or his/her representative or counsel, (2) an elected public official, and (3) a representative from the NPS or the media. [28]

Therefore, in passing RA 10640, Congress, in the exercise of its legislative power, deliberately decided to retain the mandatory requirement of securing elected public officials as witnesses. To simply do away with the said requirement without any justifiable reason would be to unduly supplant the legislative intent of RA 9165, as amended by RA 10640.

The authorities cannot now bemoan that the securing of elected public officials as witnesses is too strict a rule because, with the passage of RA 10640, the strict requirement on the presence of witnesses was already made less stringent and cumbersome in order to aid the police in complying with Section 21.

Second, the prosecution likewise admits without hesitation that Rasos, Jr.'s signature on the Receipt/Inventory of Property/Seized Evidence/s [29] dated September 12, 2015 is unavailing.

To reiterate, it is a mandatory requirement under Section 21 of RA 9165 that the accused or his/her representative and all of the aforesaid witnesses sign the copies of the inventory and be given a copy thereof.

As testified under oath by PO2 Garchitorena on cross-examination Rasos, Jr. was not able to sign the aforementioned document:

Q And you will agree with me that the inventory that you earlier identified does not reflect the signature of the accused as witness?

A Yes, ma'am. He did not. [30]

Hence, while testifying that Rasos, Jr. was not able to sign the certificate of inventory, the reason why he was not able to do so was not even explained. There was no testimony on record that alleges and proves that Rasos, Jr. refused to sign the document.

Moreover, under the IRR Guidelines, in cases wherein the accused refuses to sign the certificate of inventory, "it shall be stated 'refused to sign' above their names in the certificate of inventory of the apprehending or seizing officer." [31] In the certificate of inventory, both the name of Rasos, Jr. and the words "refused to sign" were not inscribed therein. Hence, Rasos, Jr.'s failure to sign the inventory certificate cannot be ascribed to a refusal to sign.

Third, the prosecution's main witness, PO2 Garchitorena, admitted on cross-examination that there were no

photographs taken during the inventory and markings of the alleged seized drug specimens:

Q

Were photographs taken during the inventory and markings of the recovered items?

A

None[,] ma'am.[32] (Emphasis supplied)

An examination of the prosecution's evidence reveals that the police were only able to take a photograph of Rasos, Jr.'s mugshot, as well as a photograph of the alleged marked money and the two sachets.[33]

To stress, Section 21 of RA 9165 requires that the photographing of the seized drug specimens shall be done during the conduct of the physical inventory of the seized items, which shall be undertaken immediately after seizure and confiscation.

Hence, while the prosecution was able to present a photograph of the alleged marked money and the two sachets, considering that PO2 Garchitorena unequivocally admitted under oath that no photographs were taken during the inventory and marking, such photograph was taken at some other time other than during the conduct of the physical inventory. Therefore, the mandatory requirement of photographing under Section 21 was not satisfied.

Lastly, to prevent switching or contamination, the IRR Guidelines require that "[t]he marking is the placing by the apprehending officer or the poseur-buyer of his/her initial and signature on the item/s seized." [34]

The photograph of the two sachets allegedly retrieved by the police indubitably shows that the initials inscribed on the sachets are those of Rasos, Jr. and not the apprehending officer/poseur-buyer. Nor were the sachets signed by the latter.

The Last Word

On a final note, the Court observed that both the RTC and CA, in putting much reliance on the presumption of regularity of the police operations, seriously overlooked the long-standing legal tenet that the starting point of every criminal prosecution is that the accused has the constitutional right to be presumed innocent.[35] And this presumption of innocence is overturned only when the prosecution has discharged its burden of proof in criminal cases that it has proven the guilt of the accused beyond reasonable doubt,[36] with each and every element of the crime charged in the information proven to warrant a finding of guilt for that crime or for any other crime necessarily included therein.[37] Differently stated, there must exist no reasonable doubt as to the existence of each and every element of the crime to sustain a conviction.

It is worth emphasizing that this burden of proof never shifts. Indeed, the accused need not present a single piece of evidence in his defense if the State has not discharged its onus. The accused can simply rely on his right to be presumed innocent.

In this connection, the prosecution therefore, in cases involving dangerous drugs, always has the burden of proving compliance with the procedure outlined in Section 21. As the Court stressed in *People v. Andaya*: [38]

x x x We should remind ourselves that we cannot presume that the accused committed the crimes they have been charged with. The State must fully establish that for us. If the imputation of ill motive to the lawmen is the only means of impeaching them, then that would be the end of our dutiful vigilance to protect our citizenry from false arrests and wrongful incriminations. We are aware that there have been in the past many cases of false arrests and wrongful incriminations, and that should heighten our resolve to strengthen the ramparts of judicial scrutiny.

Nor should we shirk from our responsibility of protecting the liberties of our citizenry just because the lawmen are shielded by the presumption of the regularity of their performance of duty. The presumed regularity is nothing but a purely evidentiary tool intended to avoid the impossible and time-consuming task of establishing every detail of the performance by officials and functionaries of the Government. Conversion by no means defeat the much stronger and much firmer presumption of innocence in favor of every person whose life, property and liberty comes under the risk of forfeiture on the strength of a false accusation of committing some crime.[39] (Emphasis and underscoring supplied)

The Court cannot stress enough that the accused can rely on his right to be presumed innocent. It is thus immaterial, in this case or in any other cases involving dangerous drugs, that the accused put forth a weak defense.

In sum, RA 9165 as well as the numerous decisions of the Court state that non-compliance of Section 21 of RA 9165 shall render void and invalid the seizures and custody over alleged seized drug specimen if such non-compliance is left unrecognized and unjustified by the police. With the clear failure on the part of the prosecution to recognize and justify the numerous violations of Section 21 committed by the police, the Court renders the alleged seized drug specimen in relation to the illegal sale of dangerous drugs charge inadmissible. Consequently, the prosecution failed to establish the corpus delicti of the crime.

Rasos, Jr. must perforce be acquitted.

WHEREFORE, in view of the foregoing, the appeal is hereby GRANTED. The Decision dated July 27, 2018 of the Court of Appeals in CA-G.R. CR-H.C. No. 09737 is hereby REVERSED and SET ASIDE. Accordingly, accused-appellant Jose Rasos, Jr. y Padollo @ "Jose" is ACQUITTED of the crime charged on the ground of reasonable doubt, and is ORDERED IMMEDIATELY RELEASED from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

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

SO ORDERED.

Carpio, Acting C.J.,[*] (Chairperson), J. Reyes, Jr., Lazaro-Javier, and Zalameda, JJ., concur.

[*] Designated as Acting Chief Justice per Special Order No. 2703 dated September 10, 2019.

[1] Rollo, pp. 19-21; see Manifestation and Notice of Appeal dated August 16, 2018.

[2] Id. at 2-18. Penned by Associate Justice Ramon R. Garcia with Associate Justices Myra V. Garcia-Fernandez and Germano Francisco D. Legaspi, concurring.

[3] Thirteenth Division.

[4] CA rollo, pp. 52-60. Penned by Presiding Judge Marivic Balisi-Umali.

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

[6] Rollo, pp. 3-7.

[7] CA rollo, p. 60.

[8] Id. at 59-60.

[9] Rollo, pp. 18.

[10] Id. at 11.

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

[12] *People v. Guzon*, 719 Phil. 441, 451 (2013).

[13] *People v. Mantalaba*, 669 Phil. 461, 471 (2011).

[14] The said section reads as follows:

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

(1) The apprehending team having initial custody and control of the 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 persons 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[.]

[15] Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002'" (2014).

[16] *People v. Santos, Jr.*, 562 Phil. 458, 472 (2007), citing *People v. Tan*, 401 Phil. 259, 273 (2000).

[17] G.R. No. 228890, April 18, 2018, 862 SCRA 131.

[18] 736 Phil. 749, 764 (2014).

[19] *People v. Tomawis*, supra note 17 at 149-150.

[20] Italics and underscoring supplied.

[21] See *People v. Sumili*, 753 Phil. 342, 352 (2015).

[22] 797 Phil. 671 (2016).

[23] Id. at 690-691.

[24] IRR Guidelines, Section A.1.10. (Emphasis supplied.)

[25] Rollo, p. 16.

[26] Records, p. 5.

[27] IRR Guidelines, Section A.1.6.

[28] See Committee Report No. 88 on House Bill Number 2285, House of Representatives, 16[th] Congress.

[29] Records, p. 12.

[30] TSN, May 25, 2016, p. 20.

[31] IRR Guidelines, Section A.1.5.

[32] TSN dated May 25, 2016, p. 21.

[33] Records, p. 13.

[34] IRR Guidelines, Section A.1.2. Underscoring supplied.

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

[36] The Rules of Court provides that proof beyond reasonable doubt does not mean such a degree of proof as excluding possibility of error, produces absolute certainty. Only moral certainty is required, or that degree of proof which produces conviction in an unprejudiced mind. (Rules Of Court, Rule 133, Sec. 2)

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

[38] 745 Phil. 237 (2014).

[39] *Id.* at 250-251.

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