

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO ACDANG Y BALANGEN AND ALLAN ACDANG Y BALANGEN, ACCUSED,

G.R. No. 263341, February 04, 2025

Ponente: LOPEZ, J., J.

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LOPEZ, J., J.:

This Court resolves the Appeal[1] filed by Allan Acdang y Balangen (Allan) from the Decision[2] of the Court of Appeals (CA), which affirmed the Decision[3] of the Regional Trial Court (RTC), convicting Allan of violation of Section 16 of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

Facts

On April 13, 2011, an Information[4] was filed before the RTC against Allan and his brother, Alfredo Acdang y Balangen (Alfredo), for cultivation or culture of plants classified as dangerous drugs. The accusatory portion of the Information reads:

That on or about the 11[th] day of February 2011, at Sitio Mocgao, Barangay Badeo, Municipality of Kibungan, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding each other without any authority of law, did then and there willfully, unlawfully and knowingly cultivate and plant Marijuana plants in the said area of around [5000] square meters more or less, a dangerous drug, in violation of the said law.

CONTRARY TO LAW.[5]

Both Allan and Alfredo were arrested on February 11, 2011, but Allan was able to escape from the apprehending officers. The case was initially raffled to Branch 62, RTC, La Trinidad, Benguet and trial proceeded against Alfredo. The RTC eventually issued a Decision[6] finding Alfredo guilty beyond reasonable doubt of the cultivation of dangerous drugs, while it archived the case against Allan considering that he remained at large. On June 29, 2016, Allan voluntarily surrendered at the Kibungan Municipal Police Station.[7]

On July 11, 2016, Allan entered a plea of not guilty to the charge against him.[8] He then filed a Motion to Inhibit[9] praying that the presiding judge of Branch 62 inhibit himself from hearing his case. In an Order,[10] the RTC granted Allan's Motion, and the case was re-raffled to Branch 63 of the same RTC. After termination of pre-trial,[11] trial on the merits ensued.

The prosecution presented the following witnesses: (1) Atty. Allan D. Ancheta (Atty. Ancheta), from the Philippine Drug Enforcement Agency (PDEA)-Region 1; (2) Intelligence Officer 1 Nickson Q. Acosta (IO1 Acosta), PDEA-Cordillera Administrative Region (CAR); (3) Police Officer II Christian R. Boado (PO2 Boado), Regional Anti-Illegal Drugs Special Operations Task Group-Police Regional Office Cordillera. It also adopted the testimonies given during Alfredo's trial by Atty. Ancheta, IO1 Acosta, and PO2 Boado, as well as those of IO1 Randy M. Tindaan (IO1 Tindaan), formerly of PDEA-CAR, and Police Senior Inspector Rowena F. Canlas

(PSINSP Canlas), forensic chemist from the Philippine National Police (PNP) Crime Laboratory.

IO1 Acosta testified that PDEA-CAR and PDEA Regional Office 1 organized Oplan Farmville 3 to destroy or uproot marijuana plantation sites in the tri-boundaries of La Union, Ilocos Sur, and Benguet Province. The task force was headed by Director Roberto S. Opeña (Dir. Opeña) from PDEA-Regional Office 1. Pursuant to Oplan Farmville 3, Team Omega was created and was instructed to proceed to Kibungan, Benguet.[12]

IO1 Acosta narrated that he was one of the members of Team Omega, which included Atty. Ancheta, Agent Dexter Asayco (Agent Asayco), PO2 Boado, Senior Police Officer IV Nicolas Luna (SPO4 Luna), SPO4 Takayeng,[13] Jaime Fernandez, and PO3 John Garcia.[14] After the final briefing on February 9, 2011, Team Omega left Camp Diego Silang and proceeded to Sitio Mocgao via the Santol, La Union route. They arrived at Ramot, Santol, La Union at 12:30 a.m. on February 10, 2011, and walked towards Sitio Mocgao, which took seven hours. Members of Team Omega arrived in Sitio Mocgao at around 7:00 a.m. and they proceeded to the first plantation site.[15]

IO1 Acosta estimated that the first plantation was around 5,000 square meters and that although there were vegetables planted in some parts of the plantation, most of the plants cultivated there were marijuana. IO1 Acosta asserted that he was familiar with marijuana plants since he had already seen one before. Team Omega waited in the first plantation for 10 minutes, but eventually decided to withdraw since they were unable to find anyone there.[16]

IO1 Acosta further averred that he and other members of Team Omega returned to the first plantation site at on or about 7:00 a.m. on February 11, 2011, and saw two persons cleaning and uprooting weeds from the marijuana beds. Team Omega proceeded to arrest the two which were later identified as Allan and Alfredo. Agent Asayco arrested Alfredo, while SPO4 Luna was the one who arrested Allan. Both Allan and Alfredo were informed that they were being arrested for cultivating marijuana plants, and PO2 Boado conducted a body search on them. Atty. Ancheta took pictures of the marijuana plants in the first plantation site and uprooted 53 samples of marijuana seedlings which he tied together with a red ribbon. He then attached a piece of masking tape to the bundled marijuana seedlings and wrote his initials on it. The rest of the marijuana plants in the first plantation were burned using dried bamboo and dried leaves and branches.[17] IO1 Acosta added that an inventory was conducted on the first plantation site.[18]

IO1 Acosta and the other members of Team Omega then proceeded to the second marijuana plantation site, which was located 100 meters from the first one. From the second site, he uprooted 11 fully grown marijuana plants, tied the plants with a red ribbon, and attached a piece of masking tape on the bundle and then wrote his initials, signature, and the date "February 11, 2011" on it.[19] The remaining plants in the second plantation were burned and an inventory was also conducted in the second plantation site.[20]

After the plantations were burned, Allan and Alfredo asked Team Omega if they could first be brought to their house so they could pack clothes and provisions. Their request was granted and after 30 minutes of walking, Allan was able to escape. When Team Omega arrived at Alfredo's house, they saw in plain view a hydraulic jack, one marijuana molder, one weighing scale, and a sack of dried marijuana leaves weighing around 1.7 kilograms. Team Omega also confiscated these items. IO1 Acosta marked the seized items in the house with his initials "NQA", the date, and his signature.[21] A barangay official was present when IO1 Acosta conducted an inventory of the items seized in Alfredo's house.[22]

Team Omega, together with Alfredo, left Sitio Mocgao at 2:00 p.m. on February 11, 2011, and arrived at Wallace Air Base in San Fernando City, La Union. They went to PDEA-Regional Office 1 and reported it to Dir. Opeña. He then ordered Team Omega to go to their office at Camp Dangwa to process the necessary documentation and

file the appropriate case.[23]

PO2 Boado corroborated IO1 Acosta's testimony and stated that he participated in Team Omega's operation at Sitio Mocgao. He claimed that most of the plants he saw in the plantations were marijuana. PO2 Boado further testified that he and other members of Team Omega saw two people cleaning and weeding the marijuana beds. PO2 Boado and IO1 Acosta approached the two persons and introduced themselves as a police officer and a PDEA agent. Atty. Ancheta requested SPO4 Luna and Agent Asayco to assist Team Omega in arresting Allan and Alfredo. Allan and Alfredo were informed of the nature of their arrest and constitutional rights. SPO4 Luna and Agent Asayco guarded them, while other members of Team Omega uprooted the marijuana seedlings.[24]

PO2 Boado saw IO1 Acosta take 53 samples of marijuana seedlings from the first plantation which IO1 Acosta tied with a red ribbon, attached a piece of masking tape to it, and marked. They went to the second plantation site that was located 100 meters away from the first plantation. Here, PO2 Boado saw IO1 Acosta take 11 samples, while the rest of the plants were also uprooted.[25]

Atty. Ancheta testified that he was present during the briefing in which two marijuana plantations were identified at Barangay Badeo, Kibungan, Benguet, both allegedly owned by Allan and Alfredo. Allan and Alfredo were handcuffed when they were arrested. However, the handcuffs were removed when Allan and Alfredo requested that they get provisions and clothing from their house. Atty. Ancheta explained that considering the terrain, Allan and Alfredo might stumble or injure themselves if the handcuffs were not removed. Finally, Atty. Ancheta confirmed that the samples taken from the two plantations were in the possession of IO1 Acosta.[26]

IO1 Tindaan testified that at 8:00 p.m. on February 11, 2011, he received the confiscated items from IO1 Acosta. He counted the pieces, itemized them, and prepared a final inventory.[27] The inventory was completed on the same day and a written request for examination together with the items were delivered to PSINSP Canlas.[28]

PSINSP Canlas testified that on February 11, 2011, she received a written request[29] for a laboratory examination, together with the marijuana seedlings, fully-grown marijuana plants, and dried marijuana leaves from IO1 Tindaan. PSINSP Canlas conducted a physical, chemical, and confirmatory test. The initial laboratory report[30] was issued on the same day which showed that the first eight specimens submitted were positive for the presence of marijuana. This report was the basis for filing a case before the prosecutor's office. The following day, a final chemistry report[31] was issued in which the remaining specimens tested positive for marijuana.[32]

For its part, the defense presented the following witnesses: (1) Allan; (2) Josephine A. Lentino (Josephine), Allan's sister; and (3) Enero P. Acdang (Enero), Allan's other brother. It also adopted the testimonies of Josephine, Alfredo, and Barangay Chairperson Pedanio Anatel (Brgy. Chairperson Anatel) which they gave during Alfredo's trial.

Allan denied the accusation against him. He testified that at 3:00 a.m. on February 11, 2011, he and Enero were asleep at their house when they heard somebody knocking at their door. When he opened the door, he saw his brother Alfredo together with 14 police officers who were wearing camouflage uniforms and armed with guns. Allan and Enero were told to lie face down on the floor and then frisked. However, the police officers did not find anything on them. The police officers decided to stay at their house. At around 4:00 a.m., Allan and Alfredo were brought to two gardens where they were told to uproot and burn the marijuana plants, while the police officers took pictures. They returned to Allan's house where their mother and the barangay chairperson were waiting. Team Omega arrested Alfredo, while Allan stayed behind. Allan stayed at his residence until 2016. Allan surrendered because a barangay kagawad told him to go to Kibungan. Allan also denied owning the gardens and stated that it was only the first time he saw the gardens and the police officers who arrested Alfredo.[33]

Josephine testified that in the early morning of February 11, 2011, she was in their house cooking when she saw spotlights coming from the house of her brother, Alfredo. After 30 minutes, the spotlights were turned off. Josephine went to Alfredo's house and saw him handcuffed and seated on a chair while her other brothers were cooking. She stayed for 10 minutes and left to return to her house. At around 7:00 a.m., Josephine saw the police officers and her three brothers leave the house. Josephine learned that they went to Lebeng, where a helicopter picked them up.[34] Josephine added that she was not able to see any marijuana or wooden molder at Alfredo's house.[35]

Enero testified that at around 3:00 a.m. on February 11, 2011, he, Allan, and Alfredo were at their house. Their house is a two-storey building and the second house was used as a kitchen. Enero and Allan stayed together, while Alfredo lived alone in the two-storey house. The police officers came and apprehended Allan and Alfredo. At around 7:00 a.m., the police officers brought Allan and Alfredo to a garden, while Enero stayed at the rice field because he was afraid of them. At around 2:00 p.m., he saw the police officers and his brothers walk back to their house. When Enero returned to their house, the police officers had taken Alfredo, leaving his mother, Josephine, and Allan at their house.[36]

Brgy. Chairperson Anatel testified that he was directed by police officers to proceed to Alfredo's house. When he arrived, he saw Alfredo handcuffed to a bed while Allan was hiding at the back of the house leaning on the wall. He also saw Enero leave the house because he was afraid of being taken by the police. The police officer told him that Alfredo was in possession of a bundle of marijuana and a jack used to press marijuana. The police officers also told him to sign a document. Brgy. Chairperson Anatel added that he was the first to sign the document and there was no media representative present.[37]

On September 25, 2020, the RTC rendered a Decision, the dispositive portion of which reads:

WHEREFORE, this court finds ALLAN ACDANG y BALANGEN guilty beyond reasonable doubt of violation of Section 16, Republic Act No. 9165 for cultivation or culture of marijuana plants classified as dangerous drugs or sources thereof. He is imposed the penalty of life imprisonment and a fine of Five million pesos ([PHP] 5,000,000.00).

IT IS SO ORDERED.[38]

The RTC ruled that the prosecution was able to prove the elements of the crime charged[39] and that despite the arresting officers' failure to strictly comply with the chain of custody rule the prosecution was nonetheless able to prove that the integrity of the seized marijuana plants was preserved.[40]

Allan appealed to the CA.[41] He argued that the prosecution failed to prove the elements of the crime charged.[42] Allan also pointed out that there were numerous gaps and violations in the chain of custody that cast doubt regarding his guilt.[43]

On July 21, 2022, the CA promulgated the assailed Decision which affirmed Allan's conviction. The dispositive portion of the CA Decision reads:

WHEREFORE, the instant appeal is DENIED. The September 25, 2020 Decision of the Regional Trial Court, Branch 63, La Trinidad, Benguet in Criminal Case No. 11-CR-8410 is hereby AFFIRMED.

SO ORDERED.[44]

The CA ruled that no error was committed by the RTC when it convicted Allan of cultivation of marijuana.[45] It found that the prosecution was able to establish the elements of the crime charged,[46] justify the deviations from the chain of custody rule,[47] and prove that the integrity of the corpus delicti was preserved.[48]

Hence, Allan filed the instant Appeal.

On February 20, 2023, this Court issued a Resolution[49] directing the parties to file their supplemental briefs.

On April 26, 2023, the Office of the Solicitor General filed a Manifestation and Motion[50] which informed this Court that it will not file a supplemental brief.

On May 2, 2023, the Public Attorney's Office filed a Manifestation[51] on Allan's behalf which also informed this Court that Allan will no longer file a supplemental brief.

Issue

Whether accused-appellant Allan Acdang y Balangen is guilty of violation of Section 16 of Republic Act No. 9165.

This Court's Ruling

The Appeal is meritorious.

Accused-appellant was charged with cultivation or culture of plants classified as dangerous drugs or are sources thereof under Section 16 of Republic Act No. 9165, which reads:

SECTION 16. Cultivation or Culture of Plants Classified as Dangerous Drugs or are Sources Thereof. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos ([PHP]500,000.00) to Ten million pesos ([PHP]10,000,000.00) shall be imposed upon any person, who shall plant, cultivate or culture marijuana, opium poppy or any other plant regardless of quantity, which is or may hereafter be classified as a dangerous drug or as a source from which any dangerous drug may be manufactured or derived: Provided, That in the case of medical laboratories and medical research centers which cultivate or culture marijuana, opium poppy and other plants, or materials of such dangerous drugs for medical experiments and research purposes, or for the creation of new types of medicine, the Board shall prescribe the necessary implementing guidelines for the proper cultivation, culture, handling, experimentation and disposal of such plants and materials.

Thus, to convict an accused of such crime, the prosecution must prove beyond reasonable doubt that: (1) the accused knowingly planted, cultivated or cultured marijuana, opium poppy or any plant which is or may be classified as a dangerous drug or a source from which a dangerous drug may be manufactured or derived; and (2) such planting, cultivating and culturing was not authorized by law.

Here, while accused-appellant was caught in flagrante delicto cultivating marijuana plants, the arresting officers' failure to comply with the chain of custody cast doubt on the identity, integrity, and evidentiary value of the corpus delicti which necessitates his acquittal.

Accused-appellant was arrested in flagrante delicto cultivating marijuana

The general rule is that no arrest can be made without a warrant issued by a competent judicial authority. Article III, Section 2 of the Constitution relevantly provides that:

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.

Nevertheless, the wording of the constitutional provision leaves room for warrantless arrests or searches and seizures if deemed "reasonable." [52] Rule 113, Section 5 of the Revised Rules of Criminal Procedure provides the instances when warrantless arrests can be made:

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.

In cases falling under paragraph[s] (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112.

In a warrantless arrest made pursuant to Section 5(a) or arrests made in flagrante delicto, it is required that the apprehending officer must have been spurred by probable cause to arrest a person caught. [53] Probable cause with respect to arrests refers to "such facts and circumstances which would lead a reasonably discreet and prudent [person] to believe that an offense has been committed by the person sought to be arrested." [54]

Thus, two elements must concur in a valid in flagrante delicto arrest: first, the person to be arrested must execute an overt act indicating that he has just committed, actually committing, or is attempting to commit a crime; and second, such overt act is done in the presence or within the view of the arresting officer. [55]

Here, both elements of a valid in flagrante delicto arrest were present when accused-appellant was taken into custody by members of Team Omega as shown in the testimonies of their members:

TESTIMONY OF IO1 ACOSTA

DIRECT EXAMINATION OF PROS. CABANTAC

....

Q: What did you find out when you went back to this plantation site at about 7:00 o'clock in the morning of February 11, 2011?

A: There we saw two (2) male individuals acting like cleaning or uprooting grasses in the plantation site, ma'am.

Q: What do you mean by "acting like uprooting"?

A: They were cleaning the beds in the plantation site, ma'am.

Q: Considering the fact that there was marijuana and other plants found in the area, particularly what beds of plants are they cleaning?

A: The marijuana, ma'am.

Q: There were two (2) male persons?

A: Yes, ma'am.

Q: They were on the same bed of marijuana?

A: Yes, ma'am.

Q: When they were uprooting these weeds as you said?

A: Yes, ma'am.

Q: How far were you from these two (2) persons who were then cleaning this bed of marijuana plants?

A: From where we hid ourselves, ma'am?

Q: When you arrived because from the place where the team hid themselves it is about 30 to 50 meters?

A: Yes, ma'am.

Q: And then you went back to the plantation site the following morning of February 11 at about 7:00 o'clock in the morning?

A: Yes, ma'am.

Q: And then you saw the two (2) male persons?

A: Yes, ma'am.

Q: The team, how far was your team when you saw these two (2) persons cleaning the marijuana beds?

A: More or less ten (10) meters, ma'am.

Q: When the team saw these two (2) persons cleaning these bed of marijuana plants, what happened?

A: We rushed and arrested them, ma'am.

Q: When you say "you rushed", who in particular rushed to arrest these two (2) male persons?

A: The police officers and me, ma'am.

Q: All of you?

A: Yes, ma'am, but only a few grabbed the two (2) persons.

Q: Who grabbed these two (2) male persons?

A: SPO4 Luna and Agent Asayco from PDEA-Region 1, ma'am.

Q: There are two (2) accused in these cases, Mr. Witness?

A: Yes, ma'am.

Q: Accused Alfredo Acdang as far as you can recall who arrested Alfredo Acdang?

A: It was Agent Asayco who grabbed him.

Q: How about Allan Acdang?

A: SPO4 Luna, ma'am.

Q: After these two (2) persons were restrained by Asayco and Luna, what happened next?

A: I told them that they were arrested for cultivating marijuana plants; after that, PO2 Boado conducted body search to look for illegal items.[56]

TESTIMONY OF PO2 BOADO

DIRECT EXAMINATION OF PROS. CABANTAC

Q: So[,] the team went to the plantation the early morning at about 6:45?

A: Yes, ma'am.

Q: And when you arrived at the plantation, what did you see?

A: From there, we saw two (2) male persons in the act of cleaning, [and] weeding the marijuana plantation, ma'am.

Q: You said we saw two (2) male persons cleaning the plantation?

A: Yes, ma'am.

Q: And when you say plantation, you are referring to the 5000 square meters?

A: Yes, ma'am.

Q: What were they cleaning? What part of the plantation were they cleaning?

A: They were cleaning the marijuana seedlings, ma'am.

Q: They were cleaning the beds of marijuana?

A: Yes, ma'am.

Q: They were cleaning them with what?

A: They are removing the weeds which grew on the beds of marijuana, ma'am.

Q: There were about 25-30 beds of marijuana as you have said a while ago. When you saw these two (2) male persons, what bed were they cleaning?

A: They were cleaning a bed of marijuana seedlings, ma'am.

Q: The same bed of marijuana?

A: Yes, ma'am.

Q: This bed of marijuana is located on what part of the plantation, the 5000 square meters?

A: It is located at the entrance of the plantation, ma'am.

Q: And when you saw these two (2) male persons, what did the team do?

A: Agent Acosta and I introduced ourselves as PDEA Agent and Police Officer and ordered these two (2) male persons not to move and then our team leader Atty. Ancheta requested SPO4 Luna and Agent Asayco to assist us in effecting the arrest of these two (2) persons, ma'am.

Q: How did you and Acosta introduce yourselves to the two (2) male persons that you saw cleaning the plantation?

A: We approached them, and we got hold of them and told them of our authority, likewise the nature of their arrest and likewise their Constitutional Rights, ma'am.

Q: So[,] who arrested the two (2) male persons?

A: I and Agent Acosta and we were assisted by the [sic] SPO4 Luna and Agency [sic] Asayco, ma'am.[57]

From the foregoing, accused-appellant was caught in flagrante delicto tending to marijuana plants, an act punishable under Republic Act No. 9165. Thus, the members of Team Omega had a valid reason to arrest him sans any judicial warrant.

The same notwithstanding, the arresting officers failed to strictly comply with the chain of evidence rule. Hence, there is reasonable doubt as to the integrity of the illegal flora presented as evidence in the case

In cases involving cultivation or culture of plants considered as dangerous drugs, the prosecution must prove to the point of moral certainty that the illegal flora which was planted, cultivated or cultured by the accused and seized by the apprehending officer/s are the very same flora which was examined by the laboratory and presented to court as evidence.[58] This requirement is known as the chain of custody rule under Republic Act No. 9165, as amended, which was created to safeguard against doubts concerning the identity of the seized dangerous drugs.[59]

The chain of custody is defined as the duly recorded, authorized movements, and custody of the seized drugs at each stage, from the moment of confiscation to the receipt in the forensic laboratory for examination until it is presented to the court.[60] The chain of custody, as a method of authentication, ensures that unnecessary doubts involving the identity of the seized drugs are removed.[61]

In *People v. Watamama*,^[62] this Court discussed that the prosecution must establish the following links to present a continuous and unbroken chain of custody:

[(1)] the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; [(2)] the turn-over of the illegal drug seized by the apprehending officer to the investigating officer; [(3)] the turn-over by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and [(4)] the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.[63]

With respect to the first link in the chain of evidence, i.e., the seizure and marking of the illegal drug recovered from the accused by the apprehending officer, Section 21 of Republic Act No. 9165, as amended, relevantly provides:

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

(1)

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

In *Nisperos v. People*,^[64] this Court synthesized relevant jurisprudence with respect to the first link in the chain of custody and provided the following guidelines:

In order to guide the bench, the bar and the public, particularly our law enforcement officers, the Court hereby adopts the following guidelines:

- The marking of the seized dangerous drugs must be done:
 - Immediately upon confiscation;
 - At the place of confiscation; and
 - In the presence of the offender (unless the offender eluded arrest);
- The conduct of inventory and taking of photographs of the seized dangerous drugs must be done:
 - Immediately after seizure and confiscation;

- 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; and
- Also in the presence of the insulating witnesses, as follows:
 - If the seizure occurred during the effectivity of R.A. No. 9165, or from July 4, 2002 until August 6, 2014, the presence of three (3) witnesses namely: an elected public official; a Department of Justice (DOJ) representative; and a media representative;
 - If the seizure occurred after the effectivity of R.A. No. 10640, or from August 7, 2014 onwards, the presence of two (2) witnesses; namely, an elected public official; and a National Prosecution Service representative or a media representative.
- In case of any deviation from the foregoing, the prosecution must positively acknowledge the same and prove (1) justifiable ground/s for non-compliance, and (2) the proper preservation of the integrity and evidentiary value of the seized item/s.[65]

A review of the records of the case shows that the apprehending officers were unable to strictly comply with the foregoing guidelines.

Considering that the seizure of the marijuana seedlings and plants were done on February 11, 2011, the apprehending officers should have taken photographs and conducted an inventory of the seized drugs in the presence of three witnesses, namely: (1) an elected public official; (2) a representative from the Department of Justice; and (3) a media representative. However, in this case, no witnesses were present when the apprehending officers took photographs and inventoried the marijuana plants that they seized from the plantations as shown by IO1 Acosta testimony which he gave during Alfredo's trial:

Q: Mr. witness, even after the alleged arrest of these two (2) persons, nobody among you thought of calling for barangay officials to witness the uprooting or destruction of the alleged marijuana, is that correct?

A: No, sir.

Q: Again, what do you mean by no? Nobody thought or what?

A: Of course, the team leader already thought that but considering the distance from houses, sir.

Q: So no officials from that place were present during the alleged destruction of the marijuana plantation, is that clear to us?

A: Yes, sir.

Q: Again, the samples that were present in court, it was not marked at the place where you gathered these samples of evidence?

A: Of course, I marked the same in the area, sir.

Q: In the presence only of your companions?

A: And the two (2) accused, sir.

Atty. Santos:

Q: And yet according to your statement, after the alleged arrest of the accused, you went to look for their house, is that correct?

A: Yes because it is their request, sir.

Q: And when you went to their house, you searched in their house?

A: No, sir.

Q: Now, Mr. witness, when you went to their house, did you call for any barangay official?

A: Yes, sir.

Q: Are you sure of that, Mr. witness?

A: Yes, sir.[66]

Relevantly, the foregoing testimony of IO1 Acosta was adopted by the prosecution against accused-appellant.[67] In any event, IO1 Acosta, when he was recalled as a witness against accused-appellant, reiterated that no insulating witnesses were present when Team Omega conducted an inventory and took photographs of the plants supposedly being tended to by accused-appellant when he was arrested:

ATTY. ABLOG:

Yes your honor. How many hours did you stay at the house of both accused?

A: Just about maybe 30 minutes Ma'am.

Q: Just 30 minutes, do you remember where the inventory was made?

A: The inventory was made on site Ma'am, on the first plantation site Ma'am we made an inventory, on the second plantation site, we made an inventory and we made also an inventory in their house Ma'am.

Q: So the first inventory was made at the plantation site, first plantation, and the second inventory was made where Sir?

COURT:

At the second plantation.

ATTY. ABLOG:

At the second plantation, and that is all the inventory?

PROS. CABANTAC:

And one at the house.

Q: One at the?

A: House Ma'am.

Q: So you have three inventories?

A: No Ma'am, just one copy of the inventory but considering that there were two plantation sites, on the first plantation site, I made an inventory and also an inventory on the second plantation site and at the house.

Q: So the first inventory was made on the first plantation, correct?

A: Yes ma'am.

Q: And the second inventory was made at the house of the suspect?

Court:

No, second plantation and the third inventory was made at the house of the accused.

A: Yes Your Honor.

Atty. Ablog:

Yes, thank you Your Honor.

Q: So there are three inventories, correct Sir?

A: Yes Ma'am.

Q: And you identified as your Exhibit "B" and "B-1" an Inventory of the seized items, may we know where is the third inventory Sir?

A: I mean Ma'am, I made an inventory on the first plantation site but dinagdag lang po doon sa, the same

certificate of inventory.

Court:

Teka, gumawa ka ng inventory, among klase ng inventory ang ginawa mo sa first plantation?

A: Your Honor, I made, I got a sample of the marijuana seedlings and after that, we burned and the whole marijuana plantation site was inventoried Your Honor.

Q: Inventory, what do you understand by inventory?

A: We will get the size of the area Your honor, after which we will count the number of plants

....

Q: Now, at the time that you were marking the entries in "Exhibit "B", particularly when you were at the plantations one and two, the barangay official as well as the media representatives were not around?

A: Yes Ma'am.

Q: And why did you require them to sign when they were not around, why did you ask them to sign Exhibit "B" when in fact, they were not around at the time that you were making these entries?

A: The barangay official was present when I entered the third column entry of this certificate Ma'am.

Q: But he was not around at the first and second plantation, correct?

A: Yes Ma'am.[68]

Evidently, none of the required insulating witnesses were present when members of Team Omega inventoried and took photographs of the marijuana seedlings/plants that they supposedly seized from the plantations tended to by the accused-appellant, which is a clear violation of the first link in the chain of custody. The same notwithstanding, the absence of the required insulating witnesses does not automatically invalidate the police operation that resulted in the seizure of illegal drugs. In *People v. Casa*,^[69] this Court expounded on the saving clause found in Section 21 of Republic Act No. 9165, as amended and when it can be invoked:

The third and final portion of Sec. 21(1) refers to the saving clause. It states that: 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 portion was initially found in the IRR of R.A. No. 9165. However, in the advent of R.A. No. 10640, it is now included in the text of the law. While the chain of custody has been a critical issue leading to acquittals in drug cases, the Court has nevertheless held that noncompliance with the prescribed procedures does not necessarily result in the conclusion that the identity of the seized drugs has been compromised so that an acquittal should follow. The last portion of Sec. 21(1), provides a saving mechanism to ensure that not every case of noncompliance will irretrievably prejudice the prosecution's case.

In *People v. Luna*, the Court laid down the requisites to apply the saving clause:

As a rule, strict compliance with the foregoing requirements is mandatory. However, following the IRR of RA 9165, the courts may allow a deviation from these requirements if the following requisites are availing: (1) the existence of "justifiable grounds" allowing departure from the rule on strict compliance; and (2) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team. If these two elements concur, the seizure and custody over the confiscated items shall not be rendered void and invalid; ergo, the integrity of the corpus delicti remains untarnished. x x x

....

Following a plain reading of the law, it is now settled that [noncompliance] with the mandatory procedure in

Section 21 triggers the operation of the saving clause enshrined in the IRR of RA 9165. Verbal egis non est recedendum — from the words of a statute there should be no departure. Stated otherwise, in order not to render void and invalid the seizure and custody over the evidence obtained, the prosecution must, as a matter of law, establish that such [noncompliance] was based on justifiable grounds and that the integrity and the evidentiary value of the seized items were preserved. Hence, before the prosecution can rely on this saving mechanism, they (the apprehending team) must first recognize lapses, and, if any are found to exist, they must justify the same accordingly.

Accordingly, before the prosecution can invoke the saving clause, they must satisfy the two requisites:

1.

The existence of "justifiable grounds" allowing departure from the rule on strict compliance; and

2.

The integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.

Whenever the first prong is not complied with, the prosecution shall not be allowed to invoke the saving clause to salvage its case. In *Valencia v. People*, it was underscored that the arresting officers are under obligation, should they be unable to comply with the procedures laid down under Sec. 21, Art. II of R.A. No. 9165, to explain why the procedure was not followed and prove that the reason provided a justifiable ground. Otherwise, the requisites under the law would merely be fancy ornaments that may or may not be disregarded by the arresting officers at their own convenience. Similarly, in *People v. Acub*, the Court also did not apply the first prong of the saving clause because, despite the blatant lapses, the prosecution did not explain the arresting officers' failure to comply with the requirements in Sec. 21.

On the other hand, the second prong requires that the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team. According to *People v. Adobar*, the integrity of the seized illegal drugs, despite noncompliance with Sec. 21, requires establishing the four links in the chain of custody: first, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.[70] (Emphasis supplied, citations omitted.)

In *People v. Baluyot*,[71] this Court provided examples of circumstances that can be considered as "justifiable grounds" that will excuse the presence of the insulating witnesses and held that, aside from invoking such justifiable grounds, the prosecution must also prove that the arresting officers exerted earnest efforts to procure the presence of the required insulating witnesses:

Indubitably, this strict requirement is subject to exceptions as well. The case of *People v. Lim* holds that in the event of absence of one or more of the witnesses, the prosecution must allege and prove that their presence during the inventory of the seized items was not obtained due to reasons such as: (1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official[s] themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove[d] futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.

The prosecution must show that the apprehending officers employed earnest efforts in procuring the attendance of witnesses for the inventory of the items seized during the buy-bust operation. Mere statements of unavailability of the witnesses given by the apprehending officers are not justifiable reasons for non-compliance with the requirement. This is because the apprehending officers usually have sufficient time, from the moment they received information about the alleged illegal activities until the time of the arrest, to prepare for the buy--bust operation that necessarily includes the procurement of three (3) witnesses. If one of the individuals invited refuses to participate as witness, the apprehending officers can still invite another individual to become a witness.[72] (Emphasis supplied, citations omitted)

Here, while it is true that the plantations were in a remote area,[73] the prosecution failed to show that members of Team Omega exerted earnest efforts to ensure that the required witness accompanied them in their planned police operation. Notably, despite having prior knowledge that there were marijuana plantations in their area of operation, the testimony of the members of Team Omega, as well as the evidence on record are bereft of any mention that any step was taken to secure the presence of insulating witnesses. Considering that the prosecution failed to explain the absence of the required insulating witnesses, the deviation from the Nisperos guidelines remains unjustified which compromises the chain of custody in this case.

It is settled that the effect of noncompliance with the chain of custody is the failure on the part of the prosecution to establish the identity and integrity of the corpus delicti and such will lead to the acquittal of the accused for failure to prove their guilt beyond reasonable doubt.[74] In light of the clear and unjustified violation of the chain of custody in this case, Allan's acquittal is warranted.

ACCORDINGLY, the Appeal is GRANTED. The June 21, 2022 Decision of the Court of Appeals in CA-G.R. CR-HC No. 14950 is REVERSED and SET ASIDE. Allan Acdang y Balangen is ACQUITTED of the charge of violation of Section 16 of Republic Act No. 9165, as amended. He is ORDERED IMMEDIATELY RELEASED from detention unless he is being held for some other lawful cause.

Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General of the Bureau of Corrections is DIRECTED to report to this Court, within five days from receipt of this Decision, the action that he has taken.

Let entry of judgment be issued immediately.

SO ORDERED.

Gesmundo, C.J., Hernando, Inting, Zalameda, M. Lopez, Rosario, Dimaampao, Marquez, and Kho, Jr., JJ., concur.

Leonen, SAJ., see dissenting opinion.

Caguioa, J., see concurring opinion.

Lazaro-Javier, J., please see dissent.

Gaerlan, J., I joint the dissent of SAJ. Leonen.

Singh,[**] J., on leave.

[*] On leave.

[**] Also referred to as "Allan Acdang y Balangen" in some parts of the rollo.

[1] Rollo, pp. 3-6.

[2] Id. at 9-33. The June 21, 2022 Decision in CA-G.R. CR-HC No. 14950 was penned by Associate Justice Pedro

B. Corales and concurred in by Associate Justices Carlito B. Calpatura and Jose Lorenzo R. Dela Rosa of the Sixteenth Division, Court of Appeals, Manila.

[3] Id. at 36-56. The September 25, 2020 Decision in Criminal Case No. 11-CR-8410 was penned by Judge Jennifer Palaguitang Humiding of Branch 63, Regional Trial Court, La Trinidad, Benguet.

[4] RTC records, pp. 11-12.

[5] Id. at 11.

[6] Id. at 228-251. The December 3, 2013 Decision in Criminal Case No. 11-CR-8410 was penned by Judge Danilo P. Camacho of Branch 62, Regional Trial Court, La Trinidad, Benguet.

[7] Id. at 1.

[8] Id. at 27.

[9] Id. at 29-30.

[10] Id. at 33. Dated August 1, 2016.

[11] Id. at 52-56.

[12] TSN, IO1 Nickson Q. Acosta, August 3, 2011, p. 5.

[13] First name not found in the records.

[14] TSN, IO1 Nickson Q. Acosta, August 3, 2011, p. 6.

[15] Id. at 6-9.

[16] Id. at 10-16.

[17] Id. at 16-20.

[18] TSN, IO1 Nickson Q. Acosta, January 24, 2018, p. 12

[19] TSN, IO1 Nickson Q. Acosta, October 5, 2011, pp. 8-9.

[20] CA rollo, p. 115.

[21] TSN, IO1 Nickson Q. Acosta, August 3, 2011, pp. 24-26.

[22] CA rollo, p. 191.

[23] TSN, IO1 Nickson Q. Acosta, August 3, 2011, pp. 28-29.

[24] TSN, PO2 Christian R. Boado, November 9, 2011, pp. 4-11.

[25] Id. at 11-13.

[26] TSN, Atty. Allan D. Ancheta, February 7, 2018, pp. 4-6.

[27] Records, p. 19.

[28] TSN, IO1 Randy M. Tindaan, April 16, 2012, pp. 4-5.

[29] Records, p. 20.

[30] Id. at 17.

- [31] Id. at 278.
- [32] TSN, PSINSP Rowena F. Canlas, February 20, 2012, pp. 19-30.
- [33] TSN, Allan Acdang, March 25, 2019, pp. 3-14.
- [34] TSN, Josephine A. Lentino, October 3, 2012, pp. 4-14.
- [35] TSN, Josephine A. Lentino, November 14, 2018, pp. 7-8.
- [36] TSN, Enero, P. Acdang, March 6, 2019, pp. 3-11.
- [37] TSN, Barangay Chairperson Pedanio Anatel, June 27, 2012, pp. 6-14.
- [38] Rollo, p. 56.
- [39] Id. at 43-49.
- [40] Id. at 49-55.
- [41] CA rollo, pp. 11-12.
- [42] Id. at 92-95.
- [43] Id. at 95-108.
- [44] Rollo, p. 32.
- [45] Id. at 20
- [46] Id. at 20-24.
- [47] Id. at 24-31.
- [48] Id. at 31-32.
- [49] Id. at 57.
- [50] Id. at 59-62.
- [51] Id. at 63-67.
- [52] *People v. Rangaig*, 901 Phil. 390, 404-405 (2021) [Per J. Leonen, Third Division].
- [53] *People v. Jumarang*, 928 Phil. 27, 32 (2022) [Per J. J. Lopez, Second Division].
- [54] *Evardo v. People*, 902 Phil. 414, 441 (2021) [Per J. Leonen, Third Division].
- [55] *People v. Malado*, 908 Phil. 237, 250 (2021) [Per J. Carandang, First Division].
- [56] TSN, IO1 Nickson Q. Acosta, August 3, 2011, pp. 16-18.
- [57] TSN, PO2 Christian R. Boado, November 9, 2011, pp. 9-11.
- [58] *People v. Bation*, G.R. No. 237422, February 14, 2024 [Per J. Hernando, First Division] at 10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.
- [59] *People v. Bangcola*, 849 Phil. 742, 753 (2019) [Per J. Gesmundo, First Division].
- [60] *People v. Del Rosario*, 874 Phil. 881, 894 (2020) [Per J. Gesmundo, Third Division].

[61] *People v. Jaafar*, 803 Phil. 582, 591 (2017) [Per J. Leonen, Second Division].

[62] 692 Phil. 102 (2012) [Per J. Villarama, Jr., First Division].

[63] *Id.* at 107.

[64] 931 Phil. 945 2022 [Per J. Rosario, En Banc].

[65] *Id.* at 956-957.

[66] TSN, Nickson Acosta, September 14, 2011, pp. 23-24.

[67] Rollo, p. 37.

[68] TSN, Nickson Acosta, January 24, 2018, pp. 12-27.

[69] 928 Phil. 356 (2022) [Per C.J. Gesmundo, En Banc].

[70] *Id.* at 387-390.

[71] 887 Phil. 173 (2020) [Per J. Hernando, Second Division].

[72] *Id.* at 192-193.

[73] RTC records, pp. 15-16.

[74] *Pimentel v. People*, 869 Phil. 820, 842 (2020) [Per J. Leonen, Third Division].

DISSENTING OPINION

LEONEN, SAJ.:

The majority acquitted accused-appellant Allan Acdang y Balangen (Allan) of violating Section 16,[1] Article II of Republic Act No. 9165.[2] In so ruling, the majority found that, although the Allan was arrested in flagrante delicto cultivating marijuana plants,[3] the failure of the arresting officers to strictly adhere to the chain of custody rule casted doubt as to the integrity of the illegal flora presented as evidence.[4]

I dissent.

With regard to the chain of custody rule, the majority pointed out that the arresting officers failed to strictly-comply with what is required under Section 21 of Republic Act No. 9165, as amended, particularly that there were no witnesses when the officers inventoried and took photographs of the seized marijuana plants.[5] While the majority acknowledged that noncompliance with these requirements can be excused under justifiable grounds,[6] the prosecution failed to show that the arresting officers "exerted earnest efforts to ensure that the required witness accompanied them in their planned police operation." [7]

I disagree. First, the chain of custody[8] finds application in prosecutions under Section 16 of the law. "[T]he three-witness requirement applies to seizures of cultivated plant sources of dangerous drugs." [9] Deviations from this rule are allowed, especially when the risks associated with non-compliance are adequately addressed, as will be discussed below.

Second, an in flagrante arrest justifies a warrantless arrest, thereby authorizing any subsequent search and seizure following that valid arrest. In other words, both the doctrines of in flagrante delicto and plain view unequivocally justify a warrantless arrest and the immediate seizure of evidence. This is distinct from the procedural

requirements set forth in Section 21 of Republic Act No. 9165, as amended, which governs the chain of custody rule and imposes standards for handling evidence.

While Allan did not question the validity of his warrantless arrest, he raised an error regarding the subsequent warrantless search that followed his arrest. Allan argues that "the search and seizure in the second plantation and at the house of [Alfredo Acdang (Alfredo)] cannot be considered as continuations of the search and seizure conducted in the first (1[st]) plantation, since the purported target of the operation was the first (1[st]) plantation only." [10] According to Allan, the police officers should have prepared separate inventories instead of incorporating them in a confusing inventory making it appear that the items were confiscated from the same place and at the same time. [11]

I write this Opinion to explain the nuances surrounding it.

I

The Constitution requires that arrests, searches, and seizures cannot be carried out without a valid warrant issued by a competent judicial authority based on probable cause. [12] In *People v. Rangaig*, [13]

[t]his constitutional provision prevents violations of privacy and security in person and property, and protects against "unlawful invasion of the sanctity or the home, by officers of the law acting under legislative or judicial sanction, and to give remedy against such usurpations when attempted." 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." 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." Any evidence resulting from a violation of a person's right against unreasonable searches and seizures will be deemed inadmissible in court. [14] (Citations omitted)

Nevertheless, the Constitution leaves room for warrantless arrests and/or searches and seizures provided that the same be reasonable. [15] Rule 113 of the Revised Rules on Criminal Procedure provides when a warrantless arrest is permissible:

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 first kind of warrantless arrest is known as an *in flagrante delicto* arrest. For this to be valid: "(1) the person to be arrested must execute an overt act indicating that he or she 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." [16]

Further, it is required that in arrests made in *in flagrante delicto*, the police officer must have probable cause to arrest the person – that which refers to "such facts and circumstances which would lead a reasonably discreet and prudent [person] to believe that an offense has been committed by the person sought to be arrested." [17]

Meanwhile, there are recognized exceptions for a permissible search without a warrant:

[T]here are instances when a warrantless search is valid. The following are recognized instances of permissible warrantless searches: (1) a warrantless search incidental to a lawful arrest; (2) search of evidence in plain view; (3) search of a moving vehicle; (4) consented warrantless searches; (5) customs search; (6) stop and frisk; and (7) exigent and emergency circumstances.[18] (Citation omitted)

A mere tip from an informant does not constitute probable cause for warrantless arrests, searches, and seizures. Other circumstances that will bring forth a reasonable suspicion that a crime has been committed or is actually being committed must accompany the informant's tip to justify a warrantless arrest and/or search.[19]

In *People v. Bolasa*,[20] a warrantless arrest and search based solely on the strength of a tip, without any prior surveillance, is invalid:

[I]t 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.[21]

II

The overt act of weeding and cleaning the beds of the marijuana plantation, coupled with their prior surveillance of the sites the day before, constitutes probable cause that the crime—cultivation of plants classified as dangerous drugs punishable under Section 16 of Republic Act No. 9165—has been committed and is actually being committed in the presence of the arresting officers. This resulted to accused-appellant Allan being caught in *flagrante delicto*, leading to his lawful warrantless arrest.

The majority, in so ruling that Allan was arrested in *flagrante delicto*, said that the overt act of tending to marijuana plants gave the police officers a valid reason to arrest him without any judicial warrant.[22] I agree.

To recall, the Philippine Drug Enforcement Agency (PDEA) Regional Office 1 and Cordillera Administrative Region, together with the Regional Anti-Illegal Drug Special Operation Task Group of the Philippine National Police – Cordillera Province (PNP PRO-COR), the Philippine Army, the Philippine Navy, and the Philippine Airforce organized Oplan Farmville in response to the proliferation of marijuana plantations in La Union, Ilocos Sur, and Benguet Provinces.[23] From this, Team Omega was formed with instructions to go to Sitio Mocgao, Kibungan, Benguet, where a certain Alfredo allegedly maintained two marijuana plantations.[24]

Team Omega left Camp Diego Silang at Carlatan, San Fernando City, La Union in the evening of February 9, 2011 and arrived at Ramot, Santol, La Union at 12:30 a.m. on February 10, 2011. After seven hours of hiking, the team arrived at Sitio Mocgao at around 7:00 a.m.[25] At that point, the police officers were able to corroborate the information provided by their superior, Director Roberto S. Opeña, through surveillance conducted in the vicinity, where they discovered a marijuana plantation. Such circumstance led them to believe that indeed, an offense had been committed.[26]

However, there was no person in the area to be arrested. While probable cause was already present by then, securing a warrant of arrest and/or a search warrant would be futile given how far and remote the area was—so much so that the nearest public road can only be reached after a six-hour walk.[27] Thus, the course of action taken by the police operatives to hide and spend the night in an area with a higher elevation around 30 to 50 meters from the plantation site, and to return to the plantation site the next day, February 11, at around 7:00 a.m. was not only justified, but also 'a prudent and practical response under the circumstances.

In the recent case of *People v. Bation*,[28] "[t]he decision of the police officers to wait out and arrest the person

who cultivates the plants, instead of obtaining a search warrant, is valid"[29] since "[t]here was no invalid intrusion as the plants were located in an open area visible to passersby." [30]

The marijuana plantations were located not only in an open area but also in a highly remote region spanning a vast expanse of land.[31] Both the police officers and Alfredo had to be airlifted by two Philippine Air Force helicopters to reach the police station at Camp Bado Dangwa, La Trinidad, Benguet—a fact admitted even by the defense.[32]

Moreover, the defense's theory that the possibility that Allan was merely weeding fruits and vegetables, rather than marijuana plants,[33] is untenable. First, the defense did not deny the presence of marijuana plants in the plantations, which subsequently tested positive in the laboratory examination conducted by the police. Second, Section 16 does not stipulate that plantations must be solely dedicated to the cultivation of plants classified as dangerous drugs or their sources. The phrase 'regardless of quantity' in that section implies that the cultivation of plants classified as dangerous drugs, such as marijuana and opium poppy, is punishable regardless of whether these plants are mixed with other crops. Therefore, the presence of fruits and vegetables in the same plantation does not absolve the accused-appellant of liability under the law.

II (A)

On to the validity of the warrantless search and seizure subsequent to his arrest.

Accused-appellant posits that the search and seizure in the second plantation and at the house of Alfredo cannot be regarded as extensions of the search and seizure carried out at the first plantation.[34] However, he does not challenge the validity of the search and seizure themselves but instead argues that the police officers erred in complying with the chain of custody requirements, insisting that separate inventories should have been prepared rather than combining the seized items into a confusing inventory.[35]

The warrantless search and seizure in the first and second plantations are valid for being searches of evidence in plain view.

A plain view search is usually had when a police officer is not searching for any evidence, but nonetheless inadvertently comes across an incriminating object.[36] The requisites for this kind of warrantless search are settled:

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.[37] (Citation omitted)

In the case at bar, the search and seizure of the first plantation, which covers approximately 5,000 square meters, is uncontested by both parties.[38] Meanwhile, the second plantation, located adjacent to the first and measuring about 1,000 square meters, was only 100 meters away from the place of arrest.[39] The defense even claimed that the second plantation was merely 20 meters from the first.[40]

The search of the first and second plantation under plain view is valid because: first, considering the vastness of the area, there could be no expectation of privacy in their location; second, the police officers were in a position where they could view the area; third, the discovery of the marijuana was inadvertent—that is, the incriminating object is plainly exposed to sight; and fourth, it is immediately apparent that the items are evidence of the crime. Besides, as ruled by the majority, the in flagrante arrest was valid making the intrusion of the police officers in the

area justified.[41] Thus, the valid warrantless arrest justified the search and seizure that followed.

However, I respectfully submit that the plain view search conducted by the arresting officers in Alfredo's house, which was about a 30-minute walk away from the marijuana plantations, was invalid. This search yielded a hydraulic jack, a marijuana molder, a weighing scale, and a sack of dried marijuana leaves weighing approximately 1.7 kilograms.[42]

A search under the plain view exception does not apply to one's home, including the area immediately surrounding the dwelling. In *Rangaig*:

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." The concept of curtilage was explained in *United States v. Dunn*, 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.[43] (Citations omitted, emphasis supplied)

Here, the prosecution justified their presence in Alfredo's house by claiming they allowed the two accused to retrieve provisions for humanitarian reasons.[44] I find this justification problematic.

First, after the arrests and subsequent searches in the first and second plantations, the arresting officers had completed their operation. At that point, and with the evidence they secured, they could successfully prosecute both accused for cultivating plants classified as dangerous drugs. Had it not been for their careless actions, accused-appellant Allan would not have escaped, and it would not have taken the prosecution five years to try the case against him, who only voluntarily surrendered on June 29, 2016.

Second, the police officers deviated from their operation when they acceded to the request of Alfredo and Allan. Therefore, their presence in Alfredo's house cannot be justified as it constituted a breach of their own protocol. Ergo, the officers had no prior justification for their intrusion into Alfredo's home.

This notwithstanding, even assuming that the police officers had a legal right to be in Alfredo's house, the right to contest the legality of the search and seizure belongs to the party whose rights have been violated—in this case, Alfredo, as the owner of the house. *Bation* further instructs:

The right to contest the legality of a seizure belongs only to the party whose rights have been impaired. The right is personal, and only a party whose rights were violated can assail the act and move to exclude the evidence gathered pursuant to the act. A person who is not the owner or legal occupant of the place cannot validly give consent to the search therein.[45] (Citations omitted)

Nonetheless, the seized items—a hydraulic jack, a marijuana molder, a weighing scale, and a sack of dried marijuana leaves weighing approximately 1.7 kilograms—do not constitute the corpus delicti for the charge against accused-appellant. Invalidating this seizure and excluding these items from evidence will not affect the prosecution's case against the accused-appellant. Therefore, his conviction will still stand.

III

The validity of the arrest and seizure stands independently and is wholly distinct from the provisions of Section 21 of Republic Act No. 9165, as amended. The chain of custody requirement specifically addresses the preservation of the integrity and evidentiary value of the seized evidence after it has been seized.

The law provides the procedural safeguards that must be observed in the handling of seized illegal drugs to remove all doubts concerning the identity and integrity of the corpus delicti.[46] Section 21 of Republic Act No. 9165, as amended by Republic Act No. 10640, provides the requirements for the custody and disposition of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia:

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.

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: Provided, That when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued immediately upon completion of the said examination and certification[.]

People v. Que[47] explains the importance of compliance to this rule:

Compliance with Section 21's chain of custody requirements ensures the integrity of the seized items. Non-compliance with them tarnishes the credibility of the corpus delicti around which prosecutions under the Comprehensive Dangerous Drugs Act revolve. Consequently, they also tarnish the very claim that an offense against the Comprehensive Dangerous Drugs Act was committed[.]

....

Fidelity to the chain of custody requirements is necessary because, by nature, narcotics may easily be mistaken for everyday objects. Chemical analysis and detection through methods that exceed human sensory perception,

such as specially trained canine units and screening devices, are often needed to ascertain the presence of dangerous drugs. The physical similarity of narcotics with everyday objects facilitates their adulteration and substitution. It also makes planting of evidence conducive. . . .

The Comprehensive Dangerous Drugs Act requires nothing less than strict compliance. Otherwise, the *raison d'être* of the chain of custody requirement is compromised. Precisely, deviations from it leave the door open for tampering, substitution, and planting of evidence.[48] (Citations omitted, emphasis supplied)

While a wealth of jurisprudence has applied Section 21 of Republic Act No. 9165, as amended, to prosecutions for the illegal sale and possession of dangerous drugs, it is important to note that compliance with the chain of custody rule also applies to prosecutions under Section 16 of the same law.[49]

Jurisprudence has also recognized that strict adherence to the chain of custody rule may not always be feasible, allowing for deviations but only under the most stringent and exceptional grounds. In *People v. Abdulah*,[50]

[I]n situations that render strict compliance impossible or impracticable, deviations from Section 21's requirements do not invalidate the seizure of illegal items. Noncompliance may be excused when "(a) there is a justifiable ground for such non-compliance, and (b) the integrity and evidentiary value of the seized items are properly preserved." The prosecution bears the burden of proving that the items presented are authentic without any indication of tampering.[51] (Citations omitted, emphasis supplied)

People v. Lim[52] provided for some justifiable reasons that the prosecution may allege—and concomitantly prove—for non-compliance:

(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.[53] (Emphasis supplied)

Accused-appellant argues that the prosecution failed to strictly comply with Section 21 particularly: (1) that none of the necessary witnesses were present at that time of his apprehension; and (2) the alleged irregularities surrounding the inventory of the seized items.[54]

The majority noted that the "none of the required insulating witnesses were present when members of Team Omega inventoried and took photographs of the marijuana seedlings/plants that they supposedly seized from the plantations tended to by the accused-appellant, which is a clear violation of the first link in the chain of custody." [55]

While the majority acknowledged that "the absence of the required insulating witnesses does not automatically invalidate the police operation that resulted in the seizure of illegal drugs,"[56] it still acquitted accused-appellant for failure of the prosecution to show that earnest efforts were made to secure their presence.[57]

It is my view that the deviations from the chain of custody rule under Section 21 of Republic Act No. 9165, as amended, were sufficiently justified in this case. The integrity and evidentiary value of the marijuana plants classified as dangerous drugs were duly preserved.

As to the justifiable ground, it remains an established fact that the place of apprehension was in a highly remote area—reachable only by a two-hour vehicle ride followed by a treacherous seven-hour trek by foot.[58] While we

recognize and appreciate the sense of duty and bravery demonstrated by our witnesses in the fight against illegal drugs, it would be profoundly irresponsible for our law enforcers to send them into such a perilous situation. These ordinary individuals lack the necessary training to navigate treacherous, uncharted terrain over extended periods. Exposing them to such risks not only jeopardizes their safety but will undermine the success of the operation itself.

The records also lacked any indication that the defense challenged the remoteness of the area of apprehension. This absence of objection strengthens the justification for the witnesses' absence, further validating the prosecution's case.

As to the alleged irregularities surrounding the inventory, the prosecution has sufficiently established the four links to prove a continuous and unbroken chain of custody. First, the seized marijuana plants—53 marijuana seedlings and 11 fully-grown marijuana plants—in the first and second plantations were marked, photographed, and inventoried in the respective locations of confiscation, the lack of witnesses notwithstanding.[59] Second, the apprehending officer, Investigating Officer I (IO1) Acosta, had custody of the marijuana plants from the time it was seized until he turned these over to IO1 Tinda-an in Camp Dangwa.[60] Third, after conducting an investigation, IO1 Tinda-an turned over the seized items to Police Senior Inspector (PSINSP) Canlas at the PNP Crime Laboratory in Camp Dangwa for examination.[61] Fourth, after performing several tests which yielded positive results, PSINSP Canlas testified that the marijuana plants subject of the tests were the very same ones she presented before the court.[62]

Besides, as required by *Nisperos v. People*,[63] the prosecution: (1) acknowledged that there were no insulating witnesses during the inventory and photographing of the seized items in the first and second marijuana plantations; (2) proved the existence of a justifiable ground – in this case the remoteness of the area; and (3) the proper steps taken to preserve the integrity and evidentiary value of the marijuana plants.[64]

The dangers associated with non-compliance to the chain of custody rule—such as tampering, substitution, and planting of evidence—are less egregious in cases involving large quantities of marijuana plants compared to miniscule amounts of shabu. It is not to say though that these risks will not be present in cases involving marijuana. Thus, I remain firm in my view that strict adherence to the chain of custody rule as laid down under the law and as elaborated by our jurisprudence remains to be the general rule. This is essential to ensuring the integrity of the evidence and upholding the principles of due process in prosecutions involving dangerous drugs. Nevertheless, deviations from this rule are permissible, especially when the potential risks of non-compliance are effectively addressed and justified by the prosecution, as in this case.

Accordingly, I vote to DISMISS the appeal and AFFIRM the assailed Decision of the Court of Appeals in CA-G.R. CR-HC No. 14950. Accused--appellant Allan Acdang y Balangen is GUILTY of violating Section 16, Article II of Republic Act No. 9165.

[1] Republic Act No. 9165 (2002), sec. 16 provides:

Section 16. Cultivation or Culture of Plants Classified as Dangerous Drugs or are Sources Thereof. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who shall plant, cultivate or culture marijuana, opium poppy or any other plant regardless of quantity, which is or may hereafter be classified as a dangerous drug or as a source from which any dangerous drug may be manufactured or derived: Provided, That in the case of medical laboratories and medical research centers which cultivate or culture marijuana, opium poppy and other plants, or materials of such dangerous drugs for medical experiments and research purposes, or for the creation of new types

of medicine, the Board shall prescribe the necessary implementing guidelines for the proper cultivation, culture, handling, experimentation and disposal or such plants and materials.

[2] Ponencia, pp. 1-23.

[3] Id. at 9-13.

[4] Id. at 13-21.

[5] Id. at 16, 18.

[6] Id. at 18-21.

[7] Id. at 21.

[8] Republic Act No. 9165 (2002), sec. 16.

[9] *People v. Bation*, G.R. No. 237422, February 14, 2024 [Per J. Hernando, First Division].

[10] CA rollo, p. 31.

[11] Id.

[12] See CONST., art. III, sec. 2 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 the saving clause because 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.

[13] 901 Phil. 390 (2021) [Per J. Leonen, Third Division].

[14] Id. at 404.

[15] Id. at 404-405.

[16] *People v. Cogaed*, 740 Phil. 212, 238 (2014) [Per J. Leonen, Third Division]. (Citation omitted)

[17] *Macad v. People*, 838 Phil. 102, 120 (2018) [Per J. Gesmundo, Third Division].

[18] *People v. Jumarang*, 928 Phil. 27, 31 (2022) [Per J. J. Lopez, Second Division].

[19] *People v. Rangaig*, 901 Phil. 390, 406-407 (2021) [Per J. Leonen, Third Division].

[20] 378 Phil. 1073 (1999) [Per J. Bellosillo, Second Division].

[21] Id. at 1080.

[22] Ponencia, p. 13.

[23] Rollo, pp. 11-12.

[24] Id. at 12.

[25] Id.

[26] Id.

[27] Id. at 28.

[28] G.R. No. 237422, February 14, 2024 [Per J. Hernando, First Division].

[29] Id. at 9. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

[30] Id.

[31] Ponencia, p. 21.

[32] Rollo, p. 13.

[33] CA rollo, p. 28.

[34] CA rollo, p. 31.

[35] Id.

[36] *People v. Rangaig*, 901 Phil. 390, 409 (2021) [Per J. Leonen, Third Division].

[37] *Miclat v. People*, 672 Phil. 191, 206 (2011) [Per J. Peralta, Third Division].

[38] Rollo, p. 12.

[39] Id.

[40] CA rollo, p. 26.

[41] Ponencia, p. 9.

[42] Id. at 4.

[43] Id. at 409-410.

[44] Rollo, p. 22.

[45] G.R. No. 237422, February 14, 2024 [Per J. Hernando, First Division] at 9. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

[46] *People v. De Guzman*, 825 Phil. 43, 54 (2018) [Per J. Del Castillo, First Division].

[47] 824 Phil. 882 (2018) [Per J. Leonen, Third Division].

[48] Id. at 896, 901.

[49] See *People v. Bation*, G.R. No. 237422, February 14, 2024 [Per J. Hernando, First Division].

[50] 872 Phil. 1124 (2020) [Per J. Leonen, Third Division].

[51] Id. at 1134-1135.

[52] 839 Phil. 598 (2018) [Per J. Peralta, En Banc].

[53] Id. at 621-622.

[54] CA rollo, pp. 31-36.

[55] Ponencia, p. 18.

[56] Id.

[57] Id. at 21.

[58] Id. at 3.

[59] Id. at 5, 17-18.

[60] Id. at 5.

[61] Id.

[62] See CA Decision dated June 21, 2022, p. 21.

[63] 931 Phil. 945 (2022) [Per J. Rosario, En Banc].

[64] Ponencia, pp. 3-6, 18, 21.

CONCURRING OPINION

CAGUIOA, J.:

I concur in acquitting accused-appellant Allan Acdang y Balangen (Allan). The apprehending team (Team Omega) in this case failed, without any justifiable reason, to secure the mandatory insulating witnesses required under Section 21 of Republic Act No. 9165^[1] otherwise known as the Comprehensive Dangerous Drugs Act of 2002, during the marking, photographing, and inventory of the marijuana plants from the two plantation sites, which Allan and his brother, Alfredo, were cultivating.

There is no serious question that, based on the records, there were no representatives from the Department of Justice (DOJ), the media, and an elected public official when Team Omega did their operation and inventory at the plantation sites and at the house of Alfredo.^[2] Indeed, the prosecution also admitted that the media representative who signed the inventory was present only when the police officers were already at the Philippine Drug Enforcement Agency (PDEA) Office at Camp Dangwa in La Trinidad, which were hours after the arrest of the brothers.^[3]

In its Brief,^[4] the prosecution, through the Office of the Solicitor General (OSG), argued that Team Omega's noncompliance with Section 21 of Republic Act No. 9165 is justified because of the circumstances surrounding the seizure of the drugs, i.e., the remoteness of the area, the seven-hour hike from the drop off point, and the distance between the plantation sites and the nearest police station.^[5] Likewise, the prosecution asserted that despite the procedural lapses in the chain of custody rule, the apprehending officers substantially complied with the requirements under the law,^[6] which, consequently, did not affect the integrity of the confiscated drugs.

These protestations of the OSG are not well taken, and should be discarded.

Team Omega had enough time to prepare and execute their operation in Sitio Mocgao

It must be emphasized that Team Omega's operation to go to the marijuana plantation sites was a planned activity. This means that they had all the time to organize, prepare, and comply with the requirements of the law. Notably, the prosecution's evidence indicated that Team Omega had already been at the first plantation site the day prior to the arrest of Allan and Alfredo. Police Officer 2 (PO2) Christian R. Boado testified that during the final briefing

of Team Omega, two days prior to the incident, the police officers already knew that they were going to two plantations in Sitio Moccgao, and that one of the persons in-charge of the plantations was named Alfredo, thus:[7]

Court:

Q[:]

How did you learn that there is a second plantation?

A[:]

We learned that when we had our final briefing at PDEA Region 1, Camp Diego Silang, San Fernando City, La Union, your Honor.

Court:

Q[:]

Who gave you the information that there is a second plantation?

Witness:

A[:]

Director Roberto Opeña, your Honor.

Q[:]

Anyway, during your briefing, were you told how many plantations you are going to visit?

A[:]

We were told, your Honor.

Q[:]

How many plantations were mentioned?

A[:]

They identified to us two (2) plantations, your Honor.

Q[:]

Did they identify any person who is supposed to be in-charge of these plantations?

A[:]

I only heard about the name of Alfredo, your Honor.[8]

This fact was also corroborated by Atty. Allan D. Ancheta, the team leader, when he testified that he was present during Team Omega's briefing in which two marijuana plantations were identified, and the alleged owners were Allan and Alfredo.[9]

Based on the foregoing, it is clear that Team Omega's mission was specifically to destroy or uproot the marijuana plantation sites in Sitio Moccgao. Necessarily, prior to embarking on the said mission, the police officers could easily have taken the standard operational procedures by ensuring the presence of the required witnesses pursuant to Section 21 of Republic Act No. 9165.

To be sure, even though Allan was caught in flagrante delicto while cleaning and removing weeds from the plant beds,[10] the operation of Team Omega in Sitio Mocgao was not an accidental or serendipitous circumstance which would excuse the absence of the mandatory witnesses under the law. Instead of complying, however, with the requirements of the law, the police officers showed no effort—let alone earnest efforts considered in jurisprudence—to secure the attendance of the required witnesses.

The records further reveal that Team Omega could have easily complied with the requirement of the law, if only that was their intention, as a "lupon" was within the neighborhood of the accused.[11] Despite knowledge of the presence of the said "lupon" within the vicinity, the police officers did not even try to invite or include said barangay officials to come with them when they conducted their operation.[12]

This clearly shows that the police officers had no intentions whatsoever to comply with the law, and the remoteness of the plantation is but a belated and lame excuse to justify their noncompliance.

Section 21 of Republic Act No. 9165 should strictly be applied as the law does not distinguish between small and large amounts of seized dangerous drugs

In his dissent, Senior Associate Justice Marvic M.V.F. Leonen pointed out that the dangers associated with noncompliance to the chain of custody, i.e., tampering, substitution, and planting of evidence, are less egregious in cases involving large quantities of marijuana plants compared to miniscule amounts of shabu. While he adheres to the general rule of strict adherence to Section 21 of Republic Act No. 9165, he nevertheless states that deviations from this rule are permissible, especially when the potential risks of noncompliance are effectively addressed and justified by the prosecution.[13]

Likewise, Associate Justice Amy C. Lazaro-Javier (Justice Lazaro--Javier) mentions in her Dissent that the very reason for requiring the presence of the insulating witnesses is to forestall the possibility of tampering, switching, planting, or contaminating the evidence.[14] This risk, however, is not squarely applicable to the present crime of planting or cultivating dangerous drug plants, which involve more corporeal items, as opposed to the illegal sale or illegal possession of powder-like substances, and the penalties for which depend on the amount involved.[15] Similarly, she states that in light of the great volume of marijuana plants and seedlings involved, it cannot be said that the evils that the chain of custody rule seek to avoid were not mitigated by the reasonable measures then available to Team Omega.

I respectfully disagree with both opinions.

Section 21 of Republic Act No. 9165 is and should be strictly applied regardless of the amount involved as the letter of the law does not distinguish.

This doctrine was settled in the recent case of *People v. Uy*[16] (Uy), a case involving more or less 240 kilos of shabu, where the Court En Banc held that the application of procedural safeguards in Section 21 of Republic Act No. 9165 is obligatory regardless of the amount of dangerous drugs involved. According to the Court in Uy, the law makes no distinction between large or small amounts of seized drugs, and as such, the Court cannot also make distinctions.[17] Uy is squarely applicable to the case at bar; thus, there is no reason for the Court to rule differently.

Apart from the issue being already settled in Uy, it is worth mentioning that making distinctions based on "large" or "small" quantities without textual anchors in the law will create downstream problems for both law

enforcement and the courts. Overturning Uy, as the two dissenting opinions suggest, would require not just making distinctions in law where there is none, but it would also require the Court to set thresholds as to what constitutes already a "large" amount of drugs. Further complicating this is what would constitute "large" in light of the nature of the seized drug, as Justice Lazaro-Javier implies in her Dissent that cultivating plants is not the same as selling or possessing "powder-like substances." Making distinctions, therefore, would require the Court to account for the different permutations and scenarios in order to guide law enforcement agents in how strict they need to comply with the law.

Finally, it is worth reminding the Court of the reason why strict adherence to the law is necessary to begin with. Recently, investigations involving allegations of evidence planting by police officers during anti-drug operations have surfaced since the declaration of the "war on drugs" made by the Executive Department, especially during the administration of President Rodrigo R. Duterte (Duterte).[18] This includes probes made by the DOJ itself in verifying claims made by cops that they acted in self-defense when they shot and killed suspected users, sellers, or pushers of dangerous drugs and having police officers being tagged for "possible criminal liability" over police operations carried out during President Duterte's drug war.[19]

Moreover, it was also revealed, in the hearings of the House of Representatives Quad Committee investigating President Duterte's war on drugs and the proliferation of illegal drugs,[20] that there was a supposed "quota" and "reward system" implemented for police officers during the anti-drug campaign.[21] High ranking police officials like Lieutenant Colonel Jovie Espenido, and former Philippine Charity Sweepstakes Office General Manager Royina Garma, a retired police colonel close to President Duterte, admitted that a reward system was given to police officers, patterned after the "Davao Model," which included the so-called Davao Death Squad.[22]

Taking into account the past incidents as well as the realities on the ground, I respectfully submit that now, more than ever, the need for strict adherence to the chain of custody rule is not only necessary, but must also be repeatedly emphasized.

Thus, the Court must also apply the same standards in the present case and cannot simply make an exception on the ground that tampering, switching, planting, or contaminating the evidence is less possible in cases involving "large" quantities of confiscated drugs. True to its duty as this democratic state's bastion of justice, it is incumbent upon the Court to uphold the law and an accused's fundamental rights in each and every case. Such duty does not, and should not, depend on extraneous factors such as the amount of dangerous drugs involved.

In sum, despite the "large" or substantial amounts of dangerous drugs involved in this case, the Court must acquit Allan due to the failure of the law enforcement agents to comply with the mandatory requirements of the law.

ACCORDINGLY, I vote to GRANT the Appeal and REVERSE and SET ASIDE the Decision dated June 21, 2022 of the Court of Appeals in CA--G.R. CR-HC No. 14950 finding accused-appellant Allan Acdang y Balangen guilty beyond reasonable doubt of violating Section 16, Article II of Republic Act No. 9165. Accused-appellant Allan Acdang y Balangen is ACQUITTED.

[1] 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). The relevant portion of the section reads as follows:

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 (OOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]

[2] TSN, Nickson Q. Acosta, January 24, 2018, pp. 14-15; During the testimony of Intelligence Officer I Nickson Q. Acosta, it was established:

ATTY. ABLOG:

Thank you[,] Your Honor. You are alleging that you were the one who made the inventory, correct[,] Sir?

A[:]

I was assisted Ma'am.

Q[:]

Yes, and there was a media representative here, a signatory here in this inventory named Karen Bernadette Keith, correct?

A[:]

Yes Ma'am.

Q[:]

So this media representative was present in the first plantation?

A[:]

No Ma'am.

Q[:]

No, also in the second plantation?

A[:]

Yes Ma'am.

Q[:]

Karen Bernadette Keith was not present in the second plantation?

A[:]

Yes Ma'am.

Q[:]

Also there is a signatory here, elected public official, I cannot read[,] Your Honor, the name but there appears a name and signature, this elected official, is he present during the inventory at the first plantation?

A[:]

No ma'am, but he was present on the third inventory.

Q[:]

My question[,] Sir[,] is, is this elected public official present during the inventory in the first plantation?

A[:]

No Ma'am.

Q[:]

No, is this elected public official present during the second inventory in the second plantation Sir?

A[:]

No Ma'am.

[3] TSN, Agent Nickson Q. Acost, January 24, 2018, pp. 19-20.

[4] CA rollo, pp. 146-166.

[5] Id. at 160-163.

[6] See id. at 158.

[7] TSN, PO2 Christian R. Boado, November 9, 2011, pp. 12-13.

[8] Id.

[9] Ponencia, p. 5.

[10] See id. at 9-13.

[11] TSN, PO2 Christian R. Boado, January 25, 2012, pp. 6-7. During the testimony of PO2 Christian R. Boado, it was established:

Atty. Santos:

Q[:]

Now, Mr. [W]itness, you went or proceeded to the house of Allan Acdang and Alfredo Acdang?

A[:]

Yes, sir.

Q[:]

Was there any official at that time when you arrived at their house or did you call for any barangay official at that time?

A[:]

We did not do that, sir.

Q[:]

You did not do that?

A[:]

Yes, sir.

Atty. Santos:

Q[:]

You are saying that no barangay officials went to the house [of] Allan Acadang and Alfredo Acadang after you arrived in that place?

Witness:

A[:]

After we arrived there came the Lupon that they called, sir.

Q[:]

And how would they know that you were there when you did not call for them, Mr. [W]itness?

A[:]

They have also neighbors there, sir.

[12] Id.

[13] J. Leonen, Dissenting Opinion, pp. 12-13.

[14] J. Lazaro-Javier Dissenting Opinion, pp. 7-8.

[15] Id. at 8.

[16] 936 Phil. 635 (2023) [Per C.J. Gesmundo, En Banc].

[17] Id. at 657.

[18] Cops 'planting' evidence in Iloilo buy-bust under probe, PHILIPPINE NEWS AGENCY, available at <https://www.pna.gov.ph/articles/1228092> (last accessed on February 3, 2025); DOJ drug war review: Killer cops had it easy, PHILIPPINE DAILY INQUIRER, available at <https://newsinfo.inquirer.net/1504546/doj-drug-war-review-killer-cops-had-it-easy> (last accessed on February 3, 2025); 7 cops charged with murder, arbitrary detention over fake drug bust in Bulacan, THE PHILIPPINE STAR, available at <https://www.philstar.com/headlines/2021/08/31/2123882/7-cops-charged-rnunder-arbitrary-detention-over-fake-d-rug-bust-bulacan> (last accessed on February 3, 2025); In Dumaguete, PDEA agents fake a drug buy-bust and face contempt of court, RAPPLER PHILIPPINES, available at <https://www.rappler.com/nation/pdea-agents-fake-drug-buy-bust-face-contempt-court-dumaguete>, (last accessed on February 3, 2025).

[19] DOJ doubts self-defense claim of cops in EJK cases, MANILA STANDARD, available at <https://manilastandard.net/news/top-stories/367918/doj-doubts-self-defense-claim-of-cops-in-ejk-cases.html> (last accessed on February 3, 2025).

[20] SecGen Velasco: Innovative Quad Comm Probe Economical, More Efficient, HOUSE OF REPRESENTATIVES, available at <https://www.congress.gov.ph/media/view/?content=5595&title=SECGEN+VELASCO%3A+INNOVATIVE+QU>

AD+COMM+PROBE+ECONOMICAL%2C+MORE+EFFICIENT+ (last accessed on February 5, 2025).

[21] Police officer confirms 'quota, reward system' during Duterte drug war, ABS-CBN NEWS, available at <https://www.abs-cbn.com/news/2024/8/28/police-officer-confirms-quota-reward-system-during-duterte-drug-war-1253> (last accessed on February 3, 2025).

[22] See id.; Duterte confirms existence of 'reward system', PHILIPPINE NEWS AGENCY, available at <https://www.pna.gov.ph/articles/1237749> (last accessed on February 5, 2025).

DISSENT

LAZARO-JAVIER, J.:

The ponencia acquitted accused-appellant Allan Acdang y Balangen (Allan) of violation of Article II, Section 16[1] of Republic Act No. 9165[2] as amended. Although the prosecution was able to establish all the elements of the offense charged, Allan was nonetheless acquitted due to the absence of the insulating witnesses during the conduct of inventory and taking of the photographs of the cultivated plants, i.e., marijuana, classified as dangerous drugs, which were planted in a 5,000 square meter area.

I dissent. First, to my mind, the deviations by the law enforcement authorities from Section 21 of Republic Act No. 9165, as amended, were justified by the factual circumstances of the case. Second, notwithstanding such deviations, the apprehending team exerted considerable efforts to preserve the integrity and evidentiary value of the seized marijuana plants.

I expound.

In drug-related cases, it is well-settled that compliance with the chain of custody is vital to secure a conviction. It is a mechanism specifically designed in view of the fungible nature of dangerous drugs and to prevent the tampering, substitution, and planting of evidence. It seeks to guarantee that the item seized from the accused would be the very same item presented in court. Thus, strict adherence to the rule is necessary, especially when the amount involved is miniscule,[3] viz.:

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 ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great." Thus, the courts have been exhorted to be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses[.][4] (Emphasis in the original)

Evidently, there exists an inverse proportional relationship between the quantity of illegal drugs involved and the possibility of tampering or switching—the smaller the amount of narcotics seized, the higher the probability of tampering and switching.[5] Stated otherwise, there is less probability of tampering, switching, or planting of evidence when a larger amount of dangerous drugs is involved. This was echoed in *People v. Vastine*,[6] viz.:

It is also notable that the seized drugs in this case consist of 2,000.71 grams or more than two kilos of cocaine. The sheer amount of dangerous drugs lessens the possibility of tampering and planting of evidence. As held in *People v. Lung Wai Tang*, the large quantity of drugs seized reduces, if not eradicates, the possibility of planting or tampering with evidence, thus: Strict adherence to the procedural safeguards is required where the

quantity of illegal drugs seized is small, since it is highly susceptible to planting, tampering, or alteration of evidence. On the other hand, large amounts of seized drugs are not as easily planted, tampered, or manipulated. Here, the considerable quantity of shabu consisting of almost eight (8) kilograms provides strong probative value favoring the prosecution's version of events.[7] (Emphasis supplied)

The chain of custody rule requires the presentation of the following links as proof that the identity, integrity, and evidentiary value of the seized items were properly preserved:

First, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating office of the illegal drug to the forensic chemist for laboratory examination; and, fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.[8]

This rule is encapsulated in paragraph 1 of Section 21 of Republic Act No. 9165, as amended by Republic Act No. 10640, which provides:

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

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the person/s 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.

I focus on the final phrase of Section 21(1). While strict adherence to the chain of custody rule stands as the general rule, it is not without exception. This final phrase is referred to as the "Saving Clause." This clause provides a saving mechanism when there exist justifiable grounds so as not to render void and invalidate the seizure and custody of seized items for noncompliance with the requirements of Section 21 for as long as the integrity and evidentiary value of the seized items are duly preserved.

The Court has long deferred to the wisdom of the Legislature behind this amendment of Section 21. *People v. Jodan*[9] ordained that the Saving Clause is the means of the law to touch base with the fact that perfect compliance with the chain of custody rule is an ideal that does not always translate to reality due to varying circumstances, some of which may be perfectly justifiable:

In her Sponsorship Speech on Senate Bill No. 2273, which eventually became R.A. No. 10640, Senator Grace Poe conceded that "while Section 21 was enshrined in the Comprehensive Dangerous Drugs Act to safeguard the integrity of the evidence acquired and prevent planting of evidence, the application of said section resulted in the ineffectiveness of the government's campaign to stop the increasing drug addiction and also, in the conflicting decisions of the courts." Senator Poe stressed the necessity for the amendment of Section 21 of

R.A. No. 9165 based on the public hearing that the Senate Committee on Public Order and Dangerous Drugs had conducted, which revealed that "compliance with the rule on witnesses during the physical inventory is difficult. For one, media representatives are not always available in all corners of the Philippines, especially in the remote areas. For another, there were instances where elected barangay officials themselves were involved in the punishable acts apprehended and thus, it is difficult to get the most grassroots elected public official to be a witness as required by law."

In his Co-sponsorship speech, Senator Vicente C. Sotto III said that in view of the substantial number of acquittals in drug-related cases due to the varying interpretations of prosecutors and judges on Section 21 of R.A. No. 9165, there is a need for "certain adjustments so that we can plug the loopholes in our existing law [and] ensure [its] standard implementation." Thus, he explained:

Numerous drug trafficking activities can be traced to operations of highly organized and powerful local and international syndicates. The presence of such syndicates that have the resources and the capability to mount a counter-assault to apprehending law enforcers makes the requirement of Section 21(a) impracticable for law enforcers to comply with. It makes the place of seizure extremely unsafe for the proper inventory and photograph of the seized illegal drugs.

....

Section 21(a) of RA 9165 needs to be amended to address the foregoing situation. We did not realize this in 2002 where the safety of the law enforcers and other persons required to be present in the inventory and photography of seized illegal drugs and the preservation of the very existence of seized illegal drugs itself are threatened by an immediate retaliatory action of drug syndicates at the place of seizure. The place where the seized drugs may be inventoried and photographed has to include a location where the seized drugs as well as the persons who are required to be present during the inventory and photograph are safe and secure from extreme danger.

It is proposed that the physical inventory and taking of photographs of seized illegal drugs be allowed to be conducted either in the place of seizure or at the nearest police station or office of the apprehending law enforcers. The proposal will provide effective measures to ensure the integrity of seized illegal drugs since a safe location makes it more probable for an inventory and photograph of seized illegal drugs to be properly conducted, thereby reducing the incidents of dismissal of drug cases due to technicalities.

....

Non-observance of the prescribed procedures should not automatically mean that the seizure or confiscation is invalid or illegal, as long as the law enforcement officers could justify the same and could prove that the integrity and the evidentiary value of the seized items are not tainted. This is the effect of the inclusion in the proposal to amend the phrase "justifiable grounds." There are instances wherein there are no media people or representatives from the DOJ available and the absence of these witnesses should not automatically invalidate the drug operation conducted. Even the presence of a public local elected official also is sometimes impossible especially if the elected official is afraid or scared.[10] (Emphasis supplied, citations omitted)

In sum, strict enforcement of the chain of custody rule is the yardstick in cases where: first, the amount of dangerous drugs involved is miniscule, thus, susceptible to planting; second, the dangerous drugs are fungible, thus, can be easily tampered or switched; and third, there is no justifiable ground for the officers' noncompliance with the chain of custody.

I now discuss the factual backdrop of this case.

One. The amount of dangerous drugs involved here is far from trivial. We are speaking of a 5,000 square meter plantation filled with marijuana plants and seedlings. In comparison, in *People v. Yang*[11] the Court already

considered 9.9 kilograms of ketamine hydrochloride as a large volume of dangerous drugs. Meanwhile, in *Shi v. People*,^[12] the Court applied the chain of custody leniently in view of the 7,503.41 grams of shabu confiscated from the accused. It is beyond question, therefore, that 5,000 square meters of marijuana plants and seedlings constitutes a huge volume of dangerous drugs.

Two. The dangerous drugs here are not crystal-like or powdery substances that are perfectly interchangeable or fungible. They are fully grown plants and seedlings of marijuana. Logically, the decreased possibility of tampering in cases involving larger quantities of drugs applies even more when the seized items consist not just of crystal-like or powdery substances, but of fully grown plants and seedlings of marijuana, such as in this case.

Indeed, it can hardly be argued that the police officers themselves planted marijuana plants and seedlings over a 5,000 square meter field, or got hold of a total of 64 samples of marijuana plants and seedlings just to pin down the accused when a single plastic sachet of methamphetamine hydrochloride would have sufficed. For the same reason, why would they take it upon themselves to go on a two-hour drive and trek for seven hours to do so?

Three. The officers had a legitimate reason for their deviation from the chain of custody rule. Indeed, I humbly submit that the Saving Clause finds application in light of the existence of justifiable grounds and the necessary measures undertaken by Team Omega. Consider:

First, the marijuana plantations were located in Sitio Mocgao, which required a seven-hour hike from Ramot, Santol, La Union. Before this, the team had to go on a two-hour ride to Ramot. Team Omega observed that the marijuana plantations spanned an approximate area of 5,000 square meters. Atty. Allan Ancheta took photos of the vast plantations.

Second, it appeared that the plantation was not organic. Rather, it was the product of consistent efforts on the part of an unknown culprit. Thus, Team Omega awaited the arrival of the offender, even going so far as hiking to a higher elevation of around 30 to 50 meters to remain hidden while conducting surveillance.^[13] At this point, they had no idea who would come at all or if someone would come at all to cultivate the marijuana plants.

Third, Team Omega immediately apprehended Allan and his brother, Alfredo Acdang y Balangen (Alfredo), after seeing them clean and remove weeds on a plot of land in the plantation.

Fourth, Intelligence Officer I Nickson Acosta uprooted and kept 53 marijuana seedlings and uprooted 11 marijuana plant as samples. He tied the samples, bound them with masking tape, and marked them with his initials. The remaining 120,000 marijuana seedlings and 24,000 marijuana plants were burned.

Fifth, the house of Allan and Alfredo was three kilometers from the plantation site. The nearest public road from their house could be reached after a six-hour hike.^[14]

Sixth, en route to their house, Allan managed to escape.

Seventh, Team Omega had called for an elected official for another inventory that was conducted at the house of Allan and Alfredo. By his own account, Barangay Captain Pedanio Anatel (Brgy. Capt. Anatel) claimed that he lived four kilometers away. He also saw Allan leaning and hiding behind the wall of the house.

Eighth, due to the remoteness of the area, Team Omega was able to depart only by helicopter which brought them back to Camp Bado Dangwa. There, a third inventory was done in the presence of media representative Karen Bernadette Keith, Philippine Drug Enforcement Agency-Cordillera Administrative Region representative, and an elected public official.^[15]

Ninth, five years after he evaded arrest, Allan voluntarily surrendered to the Kibungan Municipal Police Station.

Finally, the factual circumstances establishing the guilt of Allan had been passed upon not just in the September 25, 2020 Decision of Branch 63, Regional Trial Court, La Trinidad, Benguet in this case, but also in the December 11, 2013 Decision of Branch 62, Regional Trial Court, La Trinidad, Benguet. In fact, the Decisions convicting Allan and Alfredo were separately rendered by different judges, yet, they ultimately reached the same conclusion.

While the insulating witnesses were not present at or near the place of apprehension, it is undeniable that Sitio Mocgao is a remote area that required arduous effort to reach. It would be highly unreasonable to expect the police officers to bring along insulating witnesses to such a remote area—insulating witnesses who must also attend to their jobs. More important, their safety during such difficult travel cannot be discounted. Indeed, I submit that the discretion of not bringing along these insulating witnesses was the more justifiable call under this circumstances.

Still, Team Omega meticulously inventoried the seedlings and plants found and properly took and recorded the samples. There has likewise been no issue raised as to the photographs not being accurate representations of the plantations found. The very reason for requiring the presence of the insulating witnesses is to forestall the possibility of tampering, switching, planting or contaminating the evidence. This risk, however, is not squarely applicable to the offense of planting and cultivation of dangerous drug plants which involves more corporeal items as opposed to the illegal sale or illegal possession of powder-like substances the penalties for which depend on the amount involved. As well, in light of the huge volume of marijuana plants and seedlings involved, it cannot be said that the evils that the chain of custody rule seek to avoid were not mitigated by the reasonable measures then available and applied by Team Omega.

The Court should likewise not discount the fact of Allan's escape and his subsequent surrender. In *People v. Licayan*,^[16] we ordained:

Courts go by the biblical truism that "the wicked flee when no man pursueth but the righteous are as bold as a lion." Accused-appellant has not satisfactorily explained why he fled upon being spotted by the posse.

In *People v. Templo*, we held that "the act, declaration or omission of a party as to a relevant fact may be given in evidence against him. One type of act that can be given in evidence against him is flight. In criminal law, flight means an act of evading the course of justice by voluntarily withdrawing oneself to avoid arrest or detention or the institution or continuance of criminal proceedings. The unexplained flight of the accused person may as a general rule be taken as evidence having tendency to establish his guilt." In short, flight is an indication of guilt.^[17] (Emphasis in the original, citations omitted)

Allan claimed that the police officers only arrested Alfredo and left him behind. Yet somehow, despite his purported lack of knowledge that he was charged with an offense, he supposedly surrendered because a barangay kagawad told him to go to Kibungan. I submit, however, that it would be absurd to accept Allan's argument that he had no knowledge that he was arrested or that there was a case filed against him especially when his co-accused was his own kin. Further, Brgy. Capt. Anatel, a defense witness, categorically testified under oath that he saw Allan hiding behind the wall of their house.

As a final note, I echo the sentiment aired by the Court in *People v. Yang*,^[18] to wit:

Faithful observance of the rules provided under Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002" is always desirable from our police authorities. Nevertheless, the evils sought to be avoided by these rules are obviated when the dangerous drugs recovered are of large quantities. Thus, while we still strongly encourage our police to strictly follow the rules on chain of custody, we will generally not prevent the arms of our law from reaching large-scale peddlers of dangerous drugs by the simple reason that departures from said rules were committed.^[19]

The chain of custody rule is a mechanism meant to facilitate the effective administration of justice in drugs cases. I do not believe it was meant by our wise lawmakers to hamper, nay, cripple the dispensation of justice against individuals who, taking into consideration all facts and evidence on record, are clearly guilty of the crime charged.

Thus, I vote to DISMISS the appeal and AFFIRM the Decision dated June 21, 2022 of the Court of Appeals in CA-G.R. CR-HC No. 14950 finding accused-appellant Alfredo Acdang y Balangen GUILTY beyond reasonable doubt of violation of Article II, Section 16 of Republic Act No. 9165, sentencing him to life imprisonment, and ordering him to PAY the fine of PHP 5,000,000.00.

Respectfully submitted.

[1] Section 16. Cultivation or Culture of Plants Classified as Dangerous Drugs or are Sources Thereof. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who shall plant, cultivate or culture marijuana, opium poppy or any other plant regardless of quantity, which is or may hereafter be classified as a dangerous drug or as a source from which any dangerous drug may be manufactured or derived: Provided, That in the case of medical laboratories and medical research centers which cultivate or culture marijuana, opium poppy and other plants, or materials of such dangerous drugs for medical experiments and research purposes, or for the creation of new types of medicine, the Board shall prescribe the necessary implementing guidelines for the proper cultivation, culture, handling, experimentation and disposal of such plants and materials.

The land or portions thereof and/or greenhouses on which any of said plants is cultivated or cultured shall be confiscated and escheated in favor of the State, unless the owner thereof can prove lack of knowledge of such cultivation or culture despite the exercise of due diligence on his/her part. If the land involved is part of the public domain, the maximum penalty provided for under this Section shall be imposed upon the offender.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[2] Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

[3] People v. Casa, G.R. No. 254208, August 16, 2022 (Per C.J. Gesmundo, En Banc).

[4] People v. Saragena, 817 Phil. 117, 129 (2017) [Per J. Leonen, Third Division].

[5] Palencia v. People, 875 Phil. 827, 860 (2020) [Per J. Leonen, Third Division]. Citations omitted.

[6] G.R. No. 258328, November 29, 2022 [Per J. Zalameda, First Division]. Citations omitted.

[7] People v. Vastine, G.R. No. 258328, November 29, 2022 [Per J. Zalameda, First Division].

[8] People v. Gayoso, 808 Phil. 19, 31 (2017) [Per J. Del Castillo, First Division].

[9] G.R. No. 234773, June 3, 2019 [Per J. Peralta, Third Division].

[10] Id.

[11] 913 Phil. 379 (2021) [Per J. Zalameda, Third Division].

[12] G.R. No. 228519, March 16, 2022 [Per J. Lazaro-Javier, Third Division].

[13] CA Decision, p. 4.

[14] Id. at 20.

[15] Id. at 5.

[16] 428 Phil. 332 (2002) [Per curiam, En Banc].

[17] Id. at 344-345.

[18] 913 Phil. 379 (2021) [Per J. Zalameda, Third Division].

[19] Id.

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