

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. KATCHAN IRIZUMI Y BORROMEO @ HAPON, ACCUSED-APPELLANT.

G.R. No. 270344, April 23, 2026

Ponente: SINGH, J.

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SINGH, J.:

Before the Court is an appeal[1] under Rule 124 of the Rules of Court assailing the Decision,[2] dated May 24, 2023, of the Court of Appeals (CA) in CA-G.R. CR-HC No. 16201. The CA affirmed the Joint Decision,[3] dated November 19, 2021, of Branch 84, Regional Trial Court, Batangas City (RTC) finding accused-appellant Katchan Irizumi y Borrromeo @ Hapon (Irizumi) guilty of violating Sections 5 and 11 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, as amended.

The Facts

Irizumi was charged with violating Sections 5 (Illegal Sale of Dangerous Drugs) and 11 (Illegal Possession of Dangerous Drugs) of Republic Act No. 9165, as amended in two separate Informations dated April 29, 2021:

Criminal Case No. 21-28050

(Illegal Sale of Dangerous Drugs)

That on or about April 28, 2021 at around 12:05 in the early morning at Barangay 8, Poblacion, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there knowingly, willfully, and criminally sell or dispense one (1) heat-sealed transparent plastic sachet containing Methamphetamine Hydrochloride, more commonly known as shabu weighing 0.22 grams, a dangerous drug, which is a clear violation of the abovesited law.

CONTRARY TO LAW.[4]

Criminal Case No. 21-28051

(Illegal Possession of Dangerous Drugs)

That on or about April 28, 2021 at around 12:05 in the early morning at Barangay 8, Poblacion, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there knowingly, willfully, and criminally possess or have under his custody and control [14] heat-sealed transparent plastic sachets containing Methamphetamine Hydrochloride, more commonly known as Shabu, with an aggregate weight of 56.23 grams, a dangerous drug, which is a clear violation of the abovesited law.

CONTRARY TO LAW.[5]

Irizumi pleaded not guilty to both charges upon arraignment. After the conduct of pre-trial, joint trial on the merits ensued.[6]

Version of the Prosecution

The prosecution presented the testimonies of Police Staff Sergeant (PSSg) Benjo Lumanglas (PSSg Lumanglas), who was designated as the poseur buyer for the buy-bust operation, and PSSg Rovel Catilo (PSSg Catilo), the police investigator who received the seized items following the buy-bust operation, as its witnesses. Meanwhile, the testimonies of PSSg Alex Reyron A. Redruco (PSSg Redruco), who signed the Chain of Custody Form for the seized items; Police Major (PMaj) Herminia Llacuna (PMaj Llacuna), the Forensic Chemist who examined the seized items; PSSg Isidro P. Manalo (PSSg Manalo), the evidence custodian; Police Master Sergeant Joel S. Barcelona (PMSG Barcelona), who turned the seized items over to the court; Barangay Captain Belen Iturralde (Brgy. Captain Iturralde) and media representative Benedicto Griño (Griño) were stipulated upon by the prosecution and the defense.[7]

According to the prosecution, at around 8:00 p.m. on April 27, 2021, PSSg Lumanglas was on duty at the City Drug Enforcement Unit (CDEU) of the Batangas City Police Station. His civilian asset then arrived and reported that an alias Hapon was selling shabu despite the pandemic. According to the civilian asset, he and his cousin were able to buy shabu from alias Hapon at the latter's rented house in Batangas City.[8]

PSSg Lumanglas then informed Chief Intel/CDEU PMaj Joel B. Ilagan (PMaj Ilagan) and his co-police officers, PSSg Shirwyn Hernandez (PSSg Hernandez), PSSg Norwin Ilustre, and PSSg Randy Alapara of the information obtained from the asset. PMaj Ilagan gave instructions to conduct a buy-bust operation against alias Hapon. PSSg Lumanglas thus prepared and sent a Pre-Operation Report and Coordination Form to the Philippine Drug Enforcement Agency (PDEA) via e-mail providing the control number for the operation.[9]

In preparation for the buy-bust operation, PSSg Lumanglas' team held a briefing, wherein he was designated as the poseur buyer. He prepared two PHP 1,000.00 bills with serial numbers AJ525772 and TJ556600 as buy-bust money and contacted Griño, who agreed to meet the team at their office.[10]

At around 11:10 p.m., the team, including Griño, left the police station in a maroon Isuzu Hi-lander vehicle. Before leaving the station, the members of the team were frisked, while the vehicle was also inspected.[11]

At around 11:45 p.m., the team coordinated with Brgy. Captain Iturralde, who refused to take part in the buy-bust operation as she feared for her safety. The team tried to call for other witnesses, or for a Department of Justice (DOJ) representative, but no one was available because of the pandemic. As such, they proceeded to the agreed place of transaction from the barangay hall.[12]

The team parked their vehicle beside the road, but not too far from the place of the transaction. PSSg Lumanglas and the civilian asset alighted from the vehicle, while the rest of the team and Griño were left inside.[13]

PSSg Lumanglas and the asset walked towards the agreed place. While they were walking, they saw a man standing beside the road. The asset identified the bystander as alias Hapon. The asset told alias Hapon that PSSg Lumanglas was his cousin who wanted to buy shabu. PSSg Lumanglas immediately handed the buy-bust money to alias Hapon.[14]

Alias Hapon received the buy-bust money and placed the money on a styrofoam box. He then retrieved one heat-sealed transparent plastic sachet containing white crystalline substance from the same styrofoam box and handed the same to PSSg Lumanglas. When PSSg Lumanglas received the plastic sachet, he executed the pre-arranged signal to inform the team that the transaction was already consummated.[15]

When PSSg Lumanglas saw his team members coming out of their vehicle, he introduced himself to alias Hapon and arrested the latter. He apprised alias Hapon of his offense and his constitutional rights. Alias Hapon then identified himself as the accused-appellant Irizumi, a resident of Barangay 8, Batangas City.[16]

PSSg Lumanglas proceeded to mark the heat-sealed transparent plastic sachet containing suspected shabu with "BALI 4-28-2021" and his signature in the presence of Irizumi. He then placed the plastic sachet in his front right pocket.[17]

Afterwards, PSSg Lumanglas called Brgy. Captain Iturralde through his cellphone and instructed her to proceed to the place of arrest as the buy-bust operation turned out positive. When Brgy. Captain Iturralde arrived, PSSg Lumanglas frisked Irizumi in front of Brgy. Captain Iturralde and Griño, recovering from him one styrofoam box from his right hand.[18]

When he opened the box, PSSg Lumanglas found 14 pieces of heat-sealed transparent plastic sachets containing suspected shabu and the buy-bust money. He marked the buy-bust money as "BALI" and "BAL2." He also marked the 14 heat-sealed transparent plastic sachets with the following markings:

"BAL2 4-28-2021 and signature"
"BAL3 4-28-2021 and signature"
"BAL4 4-28-2021 and signature"
"BAL5 4-28-2021 and signature"
"BAL6 4-28-2021 and signature"
"BAL7 4-28-2021 and signature"
"BAL8 4-28-2021 and signature"
"BAL9 4-28-2021 and signature"
"BAL10 4-28-2021 and signature"
"BAL11 4-28-2021 and signature"
"BAL12 4-28-2021 and signature"
"BAL13 4-28-2021 and signature"
"BAL14 4-28-2021 and signature"
"BAL15 4-28-2021 and signature"[19]

Finally, PSSg Lumanglas marked the styrofoam box as "BAL16." He affixed his signature on the markings. PSSg Hernandez took pictures during the marking of the items confiscated from Irizumi, while a Certificate of Inventory was prepared by the team. The Certificate of Inventory was signed by Irizumi, Griño, and Brgy. Captain Iturralde.[20]

After the inventory, PSSg Lumanglas placed the confiscated items in a self-sealing transparent plastic sachet which served as the evidence bag, sealed the bag with masking tape, and marked it with his initials, the date of arrest, and his signature. From the place of arrest, the team headed back to the police station together with Irizumi and the pieces of evidence. Their arrival at the police station was recorded in the police blotter.[21]

At around 12:40 a.m., on April 28, 2021, PSSg Lumanglas turned over the confiscated items to investigator PSSg Catilo. Both police officers signed on the Batangas Provincial Crime Laboratory Office Chain of Custody Form.[22]

PSSg Catilo brought the letter request for laboratory examination, letter request for drug testing, and the tape-sealed self-sealing transparent plastic sachet with signature on a masking tape containing the total of 15 heat-sealed transparent plastic sachets of suspected shabu and turned over the drug-related evidence to PSSg Redruco. Both PSSg Catilo and PSSg Redruco signed the Chain of Custody Forms. In the meantime, Irizumi was subjected to drug testing.[23]

PSSg Redruco turned over the items he received to PMaj Llacuna, Forensic Chemist, who immediately conducted a laboratory examination on representative samples taken from each of the 15 heat-sealed transparent plastic sachets. All of the specimens yielded a positive result for the presence of methamphetamine hydrochloride, or

shabu.[24]

After examination, PMaj Llacuna placed the tape-sealed and signed self-sealing transparent plastic sachet, which contained the 15 heat-sealed transparent plastic sachets, inside a larger transparent plastic sachet. PMaj Llacuna marked the larger transparent plastic sachet with her initials, signature, and markings "BD-596-2021 HCL." She reduced her findings in Chemistry Report No. BD-596-2021. Thereafter, PMaj Llacuna turned over the items and the pertinent documents to PSSg Manalo for safekeeping.[25]

On May 31, 2021, PMSg Barcelona withdrew the specimen from the evidence room and turned it over to the court together with the Chemistry Report, Acknowledgment Receipt, and the Chain of Custody Form.[26]

Version of the Defense

The defense presented Irizumi as its sole witness.[27]

Irizumi narrated that, on April 27, 2021, at around 8:30 p.m., he was at home with his family when his partner asked him to buy food at a nearby store. When he went out of his house, and before he could reach the street corner, four men accosted him and introduced themselves as "police intel operatives." The men made Irizumi board a vehicle, brought him to the gate of his house, and entered the house.[28]

When he was asked by the police, Irizumi admitted that he was alias Hapon. The police asked him where he kept his "basura," to which he replied that he did not have any. The police then placed a table near the house's gate and placed shabu on top of it. They then wrote something on the shabu and proceeded to take pictures of Irizumi when he was beside the table.[29]

The barangay captain arrived at their place, but she just looked at him. Irizumi claimed that he knew the barangay captain was angry with him because he used to complain to her regarding the distribution of "ayuda." Still, Irizumi tried to ask for the barangay captain's help.[30]

The policemen threatened to arrest Irizumi's wife if he did not act accordingly. Although he was innocent, Irizumi claimed that he feared for his life because the police officers were armed.[31]

At around 10:00 p.m. on the same day, the police officers brought Irizumi to the police station, where they asked him about the whereabouts of a certain "Abdul" and "Amir." Irizumi told the officers that there were Muslims who rented his sister's place, but he was unaware if the "Abdul" they were looking for was one of them. Afterwards, Irizumi was made to wait in the police station.[32]

During the early morning of the following day, the police officers brought Irizumi to a camp where he was instructed to sign the top of an empty white container for his urine. From the camp, Irizumi was brought to a hospital, then back to the police station. He was also asked to sign a document which he remembered as the certificate of inventory. Thereafter, he was detained.[33]

Irizumi asked the police officers why he was being arrested when the shabu did not come from him. The officers told him he was being arrested for selling shabu.[34]

The police officers took Irizumi's cellphone, wallet with money amounting to PHP 60,000.00, and his bag. He begged for the police officers to return his belongings, but only the phones and the identification cards were returned to him.[35]

During the trial, Irizumi recognized PSSg Lumanglas, whom he had not met before the incident. Irizumi also claimed he did not have any trouble or quarrel with police officers, and that he was not aware of any reason as to why he would be arrested.[36]

Before he was arrested, Irizumi was earning PHP 3,000.00 to PHP 10,000.00 per month selling motorcycle parts online. At the time of his arrest, Irizumi and his family had been residing in Barangay 8, Batangas City for eight years. Irizumi asked his family to leave Batangas City as he feared for their safety. He planned to file a case against the police officers, but could not do so due to his detention.[37]

The Ruling of the RTC

In a Joint Decision, dated November 19, 2021, the RTC found Irizumi guilty beyond reasonable doubt for violating Sections 5 and 11 of Republic Act No. 9165, as amended:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. In Criminal Case No. 21-28050, accused KATCHAN IRIZUMI [y] Borromeo @ "Hapon" is found GUILTY beyond reasonable doubt of Violation of [Article II, Section 5] of [Republic Act No.] 9165 (sale of 0.22 gram of shabu), and he is sentenced to suffer the penalty of Life Imprisonment and to pay a FINE of [PHP 500,000.00].
2. In Criminal Case No. 21-28051, accused KATCHAN IRIZUMI [y] Borromeo @ "Hapon" is found GUILTY beyond reasonable doubt of violation of [Article II, Section 11] of [Republic Act No.] 9165 (possession of 56.23 grams of shabu), and he is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a FINE of [PHP 500,000.00].

Accordingly, the big plastic sachet with marking "BD-596-2021 HCL" (Exhibit "R") containing one [] tape-sealed self-sealing transparent plastic sachet with markings "BAL 4-28-2021 with signature" (Exhibit "S") with [15] heat-sealed transparent plastic sachets of shabu with markings "BAL1 4-28-2021 and signature" to "BAL15 4-28-2021 and signature" (Exhibit "T" to Exhibit "T-14") and one [] improvised styro box marked with "BAL16" (Exhibit "V") shall be immediately transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper disposal in accordance with law and pertinent regulations.

As to the monies subject of the sale, particularly the two [] pieces of [PHP 1,000.00] bill with Serial Nos. AJ525772 and TJ556600 (Exhibit "Q" and "Q-1"), the same is forfeited and confiscated in favor of the Government. Consequently, the OIC-Branch Clerk of Court is ORDERED to turn-over to the Office of the Clerk of Court of the Regional Trial Court, upon proper receipt, the monies confiscated for proper deposit to the General Fund/Bureau of Treasury, in accordance with Section 20 of Republic Act No. 9165 and in compliance with OCA Circular No. 71-2017.

SO ORDERED.[38] (Emphasis in the original)

According to the RTC, the prosecution was able to establish all the elements of illegal sale of shabu, and was able to prove with moral certainty that the buy-bust was legitimately conducted, and that the accused was lawfully arrested. The RTC pointed out that the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money consummated the buy-bust transaction.[39]

The RTC also ruled that all of the elements of illegal possession of dangerous drugs were established. The RTC pointed out that the police officers' search of Irizumi, which yielded 14 heat-sealed transparent plastic sachets of shabu, was legal, as it was a search following a lawful arrest of the accused in flagrante delicto for sale of shabu. Further, the RTC ruled that Irizumi failed to prove that he was properly authorized by law to possess the shabu, and failed to rebut his animus possidendi of the drugs found in his possession.[40]

As regards the chain of custody of the dangerous drugs, the RTC ruled that the prosecution complied with the requirements laid down by the law. The RTC ruled that Section 21 of Republic Act No. 9165, as amended by Republic Act No. 10640, which requires the presence of an elected public official and a representative of the National Prosecution Service or the media, has been complied with.[41]

The RTC noted that the inventory was conducted in the presence of Brgy. Captain Iturralde and media representative Griño, who both signed the Certificate of Inventory. While only Griño was present during the actual buy-bust, the RTC ruled that prosecution was able to sufficiently justify the absence of an elected public official and the representative from the National Prosecution Service during the actual seizure of the items.[42]

To the RTC, the presence of Griño during the actual seizure, coupled with the marking and inventory in the presence of both Griño and Brgy. Captain Iturralde, as well as the photographs taken during the marking and inventory, attest to the identity and integrity of the dangerous drug.[43]

Meanwhile, the RTC rejected Irizumi's defenses of denial and frame-up. The RTC held that, in drug cases, police officers are presumed to have performed their duties in a regular manner, and that their testimony is worthy of full faith and credit in the absence of evidence as to an improper motive.[44]

Thus, Irizumi appealed to the CA.

The Ruling of the CA

In a Decision, dated May 24, 2023, the CA affirmed the RTC Joint Decision:

WHEREFORE, premises considered, the Joint Decision[,] dated November 19, 2021[,] rendered by [Branch 84, Regional Trial Court of Batangas City] in Criminal Case Nos. 21-28050 to 51, is AFFIRMED IN TOTO.

SO ORDERED.[45] (Emphasis in the original)

The CA ruled that all the elements of illegal sale of dangerous drugs and illegal possession of dangerous drugs are present, as proved by the testimonies of the police officers and the documentary and object evidence presented by the prosecution.[46]

As regards compliance of the police officers with the chain of custody, the CA lent credence to the testimony of PSSg Lumanglas recounting in detail how the buy-bust operation, the confiscation of the illicit drug subject of the sale, and the subsequent recovery of the illegal drugs found in Irizumi's possession transpired.[47]

As regards Brgy. Captain Iturralde's absence during the commencement of the buy-bust operation and during the sale, the CA ruled that the same was justified, as the police officers attempted to secure the attendance of a representative from the DOJ to no avail because of the pandemic, and because the buy-bust was conducted late in the evening.[48]

The CA further ruled that, in any event, Griño was present during the apprehension of Irizumi, and that Brgy. Captain Iturralde's presence during the inventory was substantial compliance with the chain of custody rule:

In any event, records would bear out that Griño was able to accompany the police officers as he rode the same van which carried the police officers who were awaiting PSSg Lumanglas' pre-arranged signal to arrest the accused-appellant. Verily, Griño was present at the exact time of the apprehension of the accused-appellant initially for illegal sale of dangerous drugs. Thus, Griño was able to witness how the transaction between PSSg Lumanglas, the confidential informant and the accused-appellant took place which ultimately led to the accused-appellant's arrest. In an attempt to nevertheless comply with the two-witness rule under RA No. 10640, PSSg Lumanglas waited for [10] to 15 minutes for Brgy. Captain Iturralde after the consummation of the sale transaction with the accused-appellant, prior to frisking the latter as part of a search that was incidental to accused-appellant's lawful warrantless arrest.

....

It was only after Brgy. Captain [Iturralde] appeared that PSSg Lumanglas frisked the accused-appellant as a consequence of a prior valid warrantless arrest and found 14 other sachets of shabu in the latter's possession. To

repeat, Griño was present when the accused-appellant was accosted for selling shabu and when the sachet which was subject of the sale was marked by PSSg Lumanglas. Thereafter, both Griño and Brgy. Captain Itturalde were present during the frisking of the accused-appellant and in the marking of the 14 sachets containing suspected shabu which were later on recovered from the accused-appellant, as well as during the inventory thereof and of the sachet that was the subject of the sale. These circumstances prove the earnest efforts of the police officers to comply with the two-witness rule under Section 21, [Republic Act] No. 9165, as amended. While this is not what the law intended it to be, We consider it substantial compliance with the chain of custody rule as the situation in this case called for an immediate procedure.[49]

Meanwhile, as regards Irizumi's claim that the seized items were not marked immediately after confiscation, the CA ruled that the deviation was done in order to allow Brgy. Captain Itturalde to witness the frisking of Irizumi.[50]

Lastly, the CA similarly rejected Irizumi's defenses of denial and frame up and dismissed the same as a common defense ploy in dangerous drugs cases.[51]

Aggrieved by the CA Decision, Irizumi appealed to the Court.

The Issue

Did the CA err in affirming Irizumi's conviction for violating Sections 5 and 11 of Republic Act No. 9165, as amended?

The Ruling of the Court

The Court cannot simply turn a blind eye to the police officers' disregard of the two-witness rule and the attempt to pass the same off as substantial compliance. Therefore, the Court acquits Irizumi on the basis of reasonable doubt.

The required insulating witnesses were not present "at or near" the place of seizure

It is well settled that in cases involving dangerous drugs, the State bears not only the burden of proving the elements of the drugs charge, but also of proving the corpus delicti or the body of the crime. The dangerous drug itself is the very corpus delicti of the violation of the law.[52] Thus, the identity and integrity of the seized drugs should be established with moral certainty.[53]

Since illegal drugs are not readily identifiable and are susceptible to tampering, alteration, or substitution,[54] the prosecution bears the burden of showing an unbroken chain of custody over the dangerous drugs and account for each link of the chain of custody from the moment that the illegal drugs are seized up to their presentation in court as evidence of the crime.[55]

To comply with this requirement, the State must comply with the strictures 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.

(2) Within [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[.]

As can be gleaned from the foregoing provision, the law specifically requires two witnesses, i.e., an elected official and either a representative of the National Prosecution Service or of the media, immediately after seizure or confiscation of the illegal drugs from the accused.

In *Nisperos v. People*,^[56] the Court emphasized that the required witnesses must be present "at or near" the place of apprehension, or within the immediate vicinity, to ensure compliance with the statutory requirement that the inventory be conducted immediately after the seizure and confiscation:

In warrantless arrests on account of buy-bust operations, the required witnesses must be present "at or near" the place of apprehension, [i.e.], within the vicinity, in order to comply with the statutory rule that the inventory should be conducted immediately after the seizure and confiscation. Since they may be present "near" the place of apprehension, they need not witness the arrest itself or the seizure or confiscation of the drugs or drug paraphernalia. They only need to be readily available to witness the immediately ensuing inventory.^[57]

In *People v. Calleja*,^[58] the Court condemned the practice of "calling in" the witnesses only after the fact of the seizure and apprehension:

As admitted by no less than SPO2 Joven, one of the officers who participated in the buy-bust operation, the witnesses were not present in the actual operation itself. Instead, they remained in the Kababayan Center or police outpost[.]

To reiterate, this requirement could have been easily complied with by the buy-bust team, considering that the buy-bust operation is, by its nature, a planned activity. Notwithstanding the conduct of a pre-operation meeting prior to the actual operation, the witnesses were only called in after the apprehension and only after SPO2 Joven had secured possession of the sachets. Again, the arresting police officers did not offer any explanation, which would have excused their failure to comply with this requirement.^[59] (Emphasis supplied)

In this case, the Court finds that the publicly elected official, Brgy. Captain Iturralde, was not "readily available"

as required in *Nisperos*, and had to be called in, similar to the fatal error in *Calleja*. This is clear from *PSSg Lumanglas' Sinumpaang Salaysay*:

Na, ganap na ika 11:45 ng gabi ika-27 ng Abril 2021 ay dumating na kami sa Brgy Hall ng Brgy 8, Batangas City para maki pagkoordinasyon na magsasagawa kami ng isang Buy Bust operation sa kanilang lugar ang sipi kalakip nito bilang patunay ang Annex 'I', matapos nito ay inanyayahan namin si Brgy. Captain Belen Iturralde na maging kabahagi bilang saksi sa aming gagawiing operasyon at dahil sa panganib na pwedeng mangyari sa kanya ay nangangamba siya, hindi lang sa kaniyang buhay at kaligtasan ng kaniyang pamilya na dulot/bunga ng aming operasyon hinggil sa ipinagbabawal na gamot kaya minabuti na niyang mag antay na lang sa Brgy Hall at tawagan na lang siya pag nag positibo ang aming lakad[.][60] (Emphasis supplied)

Clearly then, the apprehending officers failed to comply with the requirement that the insulating witness must be "at or near the place of apprehension" as required by Section 21 of Republic Act No. 9165, as amended. This undoubtedly casts serious doubt on the integrity and identity of the dangerous drugs seized from *Irizumi*.

The People argue that the belated presence of Brgy. Captain Iturralde was justified, as the police officers exerted efforts to secure the presence of other witnesses but could not do so during the pandemic, and because it was already late in the evening. The Court rejects these justifications.

In *People v. Lim*,^[61] the Court ruled that the following are justifiable reasons for not securing the required witnesses:

(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.^[62]

Further, in *People v. Umipang*,^[63] the Court ruled that mere statements of unavailability are not enough, as the prosecution must show actual serious attempts to contact the required witnesses:

[W]e find that there was no genuine and sufficient effort on the part of the apprehending police officers to look for the said representatives pursuant to Section 21(1) of [Republic Act No.] 9165. A sheer statement that representatives were unavailable – without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances – is to be regarded as a flimsy excuse. We stress that it is the prosecution who has the positive duty to establish that earnest efforts were employed in contacting the representatives enumerated under Section 21(1) of [Republic Act No.] 9165, or that there was a justifiable ground for failing to do so.^[64] (Emphasis supplied)

Here, not only does the Court find the police officers' excuses to be unavailing, there were likewise no actual serious attempts to contact other witnesses who may be available.

The Court points out that acceptable excuses for non-compliance with the required insulating witnesses must either be based on the urgency of the buy-bust operation, safety considerations for the witnesses, or other compelling circumstances. Stated differently, absent any urgency, safety considerations, or compelling circumstances, the bare allegation of earnest efforts of police officers to secure the presence of witnesses must necessarily fail.

Thus, in *Lim*, the Court opined that earnest but unfruitful efforts to secure the presence of the required witnesses may excuse non-compliance if the officers face the threat of being charged with arbitrary detention under Article 125 of the Revised Penal Code, or there is a possibility that the offenders may escape.

Here, the records do not show any urgency in the conduct of the buy-bust operation as to justify the police officers' haste in securing the required witnesses. The police officers were not, at any point prior to the buy-bust operation, under the threat of being charged with arbitrary detention. There is also no showing that Irizumi could escape at any moment if they did not conduct the buy-bust operation immediately.

The Court points out that a buy-bust operation is largely a planned endeavor, and, as such, the presence of the insulating witnesses is a requirement that can be complied with easily.^[65] Thus, it is confusing how the police officers in this case could not have exerted further efforts to secure the required witnesses to comply with the strictures of the law.

Additionally, other than their bare allegation that they tried to contact other witnesses, the prosecution failed to prove the particular attempts by the police officers to contact other potential witnesses and provide details such as the details regarding the persons they tried to contact, and the specific modes of contacting them.

Thus, similar to the Court's ruling in *Umipang*, the Court finds that the justification proffered by the officers in this case constitutes a sheer statement that the required representatives were unavailable. Consequently, this justification must be rejected.

Further, the Court cannot accept the justification that a witness could not be secured because of the pandemic.

It is clear that, at the time of the incident, people can already go outside with minimal fear of contracting COVID-19 and police officers can already resume conducting buy-bust operations. In fact, Brgy. Captain Iturralde's initial refusal to participate in the buy-bust operation was due to her fear of being involved in operations involving dangerous drugs, and not because she was afraid she would contract COVID-19. Griño was also readily available when called by the police.

The bare invocation of the COVID-19 pandemic, without indicating with specificity why the pandemic substantially obstructed the police officers' strict compliance with the law, cannot be accepted. Invoking the COVID-19 pandemic is not a panacea which would automatically cure police officers' non-compliance with the chain of custody rule, especially considering the facility by which this excuse can be made.

Thus, while difficulties attendant to a pandemic can constitute a justifiable reason for not securing the required insulating witnesses to comply with the chain of custody rule, such difficulties must still be laid out in detail and sufficiently proven by the prosecution in order for the courts to make a proper determination whether the non-compliance was, indeed, justified.

In a similar vein, the Court cannot accept the People's justification that, in any case, Griño was present during the entire buy-bust operation. As earlier discussed, the law requires, at least, two witnesses not just at the time of the inventory, but, more importantly, at or near the place of arrest.

The marking of the seized items was not compliant with the Philippine National Police (PNP) Manual

Section 2-6, paragraph 2.35 of the 2014 Revised 2014 Revised PNP Manual on Anti-Illegal Drugs Operations and Investigation (PNP Manual), which provides:

2.35. The seizing officer must mark the evidence with his initials indicating therein the date, time and place where the evidence was found/recovered or seized.

Here, the markings only contain PSSg Lumanglas' initials and signature, as well as the date of the seizure. The time and the place of the seizure, however, are notably not indicated on the seized evidence. Clearly, the seizing officers in this case failed to comply with the PNP Manual in marking the seized items.

While compliance with the PNP Manual is not an absolute requirement to establish the links in the chain of custody of dangerous drugs, failure to comply with the same has been recognized by the Court as casting a cloud of doubt on the integrity and evidentiary value of the evidence seized. Thus, in *People v. Atanacio*,^[66] the Court ruled:

In *People v. Casa*, the Court ruled that failure to comply with the PNP Manual in marking the seized dangerous drugs contributes to the uncertainties on whether the marking was properly done by the police officers involved, which in turn thicken the cloud of doubt surrounding the integrity and evidentiary value of the confiscated items: As discussed by our esteemed colleague Justice Caguioa in his Concurring Opinion, the Court has repeatedly stressed that a buy-bust is a planned operation, and given that the 2014 PNP Manual itself expressly provides its application to all PNP members and its Anti-Illegal Drugs Units in all levels on procedures that must be observed in the course of anti-illegal drugs operations and investigation, it strains credulity why the buy-bust team could not have at least marked the seized items according to the procedures in their own operations manual.

Indeed, while PNP Manuals are not the absolute and controlling requirement for the conduct of the first link under Sec[ti]on 21(1) of [Republic Act] No. 9165, as amended, noncompliance thereof still contributes to the uncertainties on whether the marking was properly done by the police officers involved. Evidently, such uncertainties thicken the cloud of doubt surrounding the integrity and evidentiary value of the seized items.

To the Court, the lapses committed by the apprehending officers in marking the seized items are not minor, and created reasonable doubt that the items confiscated from Atanacio and Magno are the same items offered in evidence.^[67] (Citations omitted)

Similarly, the Court rules that, in this case, the failure to comply with the PNP Manual as regards the marking of the seized evidence creates reasonable doubt that the items seized from Irizumi are the same items offered in evidence before the trial court.

The Request for Laboratory Examination does not state the weights of the alleged shabu seized from the accused

Although the weight of the alleged dangerous drugs seized from the accused is indicated in the Informations filed, the Court notes that such weights are not reflected in the Request for Laboratory Examination, which is a crucial document in establishing the chain of custody of the corpus delicti.

In *People v. Otico*,^[68] the Court held that the failure to indicate the weight of the seized shabu in the required documents casts doubt on the regularity of the buy-bust operation and on the preservation of the integrity of the confiscated drugs:

Given the failure to indicate the weight of the shabu in the documents required to be accomplished in the handling of the drug evidence starting from recovery of the shabu from the civilian agent to the request for laboratory examination to prove the regularity of the buy-bust operation and preserve the integrity of the recovered shabu, and to comply with the requirement in the PNP Manual on the weighing thereof, the object of the illegal sale has clearly not been proven beyond reasonable doubt. There is thus reasonable doubt that the

alleged shabu, which was recovered from the civilian agent and bought by the latter from Otico, might not be the same one that was delivered to the PNP Regional Crime Laboratory Office 7 for examination.[69]

Thus, the failure to indicate the weight of the seized shabu in the Request for Laboratory Examination casts further shadow on the integrity and evidentiary value of the purported dangerous drugs recovered from Irizumi.

The prosecution failed to establish how the evidence custodian, PSSg Manalo, safeguarded the seized items while they were in his custody

Given the inherently delicate nature of drugs cases, and in compliance with the statutory requirement of establishing an unbroken chain of custody over the corpus delicti, the prosecution bears the burden of accounting for every material transfer of the seized drugs. This includes the transfer to the evidence custodian, who typically receives the items from the forensic chemist and is responsible for their safekeeping until they are presented in court.

Accordingly, it is essential for the prosecution to clearly demonstrate how the seized drugs were handled, preserved, and secured during the period they remained in the custody of the evidence custodian. In *People v. Orcullo*,^[70] the Court ruled:

The prosecution did not present the evidence custodian, or the person to whom the alleged seized shabu was delivered after the laboratory examination. The evidence custodian could have testified on the circumstances under which he or she received the items, what he or she did with them during the time that the items were in his or her custody, or what happened during the time that the items were transferred to the trial court. The absence of the testimony of the evidence custodian likewise presents a break in the links in the chain of custody of the evidence.^[71] (Emphasis supplied)

In this case, the stipulated testimony of the evidence custodian was confined to the receipt of the seized items by PSSg Manalo, their placement in the evidence room, and his execution of the Chain of Custody Form. It notably lacks any account of the measures taken by PSSg Manalo to ensure the preservation of the items' identity and integrity, as well as any description of how the items were handled during the period prior to their submission to the trial court. Pursuant to *Orcullo*, this omission leaves a critical gap in the prosecution's narrative and constitutes a further break in the chain of custody of the evidence.

With the foregoing gaps in the chain of custody, the Court is left with no other choice but to conclude that doubt exists concerning the integrity and identity of the illegal drugs seized from Irizumi. The Court cannot rest assured that there has been no adulteration or planting of evidence in this case. Thus, on the basis of reasonable doubt, Irizumi must be acquitted of the charges of illegal sale and illegal possession of dangerous drugs.

As a final point, the Court recognizes the zeal by which the authorities are battling the scourge of dangerous drugs plaguing our country. However, authorities should be careful not to let their zeal obfuscate their greater duty of adhering to the strictures of the law.

ACCORDINGLY, the appeal is GRANTED for failure of the prosecution to prove the guilt of accused-appellant Katchan Irizumi y Borromeo @ Hapon beyond reasonable doubt for the charge of violating Sections 5 and 11 of Republic Act No. 9165, as amended. The Decision, dated May 24, 2023, of the Court of Appeals in CA-G.R. CR-HC No. 16201 is REVERSED. Katchan Irizumi y Borromeo @ "Hapon" is ACQUITTED of the aforementioned charges and ordered RELEASED from confinement, 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, Muntinlupa City, for immediate implementation. The said Director General is DIRECTED to report to this Court, within five days from receipt of this Decision, the action he has taken. Copies shall also be furnished to the Chief of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

Let entry of judgment be issued immediately.

SO ORDERED.

Caguioa, (Chairperson), Inting, Gaerlan, and Dimaampao, JJ., concur.

[1] Rollo, pp. 3-4.

[2] Id. at 8-34. Penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justices Germano Francisco D. Legaspi and Roberto P. Quiroz of the Third Division, Court of Appeals, Manila.

[3] Id. at 36-47. Penned by Presiding Judge Dorcas P. Ferriols-Perez.

[4] Id. at 36-37.

[5] Id. at 37.

[6] Id.

[7] Id.

[8] Id.

[9] Id. at 38.

[10] Id.

[11] Id.

[12] Id.

[13] Id.

[14] Id.

[15] Id. at 38-39.

[16] Id. at 39.

[17] Id.

[18] Id.

[19] Id.

[20] Id.

[21] Id.

[22] Id. at 39-40.

[23] Id. at 40.

[24] Id.

[25] Id.

[26] Id.

[27] Id. at 41.

[28] Id.

[29] Id.

[30] Id.

[31] Id.

[32] Id.

[33] Id.

[34] Id.

[35] Id. at 42.

[36] Id.

[37] Id.

[38] Id. at 46-47.

[39] Id. at 42.

[40] Id. at 43.

[41] Id. at 45.

[42] Id.

[43] Id.

[44] Id. at 46.

[45] Id. at 34.

[46] Id. at 23.

[47] Id. at 25.

[48] Id. at 29.

[49] Id. at 29-30.

[50] Id. at 30.

[51] Id. at 32.

[52] *People v. Rasos, Jr.*, 863 Phil. 708, 719 (2019) [Per J. Caguioa, Second Division].

[53] *People v. Casco*, 844 Phil. 124, 132 (2018) [Per J. Caguioa, Second Division].

[54] *People v. Lim*, 839 Phil. 598, 632 (2018) [Per J. Peralta, En Banc], citing *Mallillin v. People*, 576 Phil. 576

(2008) [Per J. Tinga, Second Division].

[55] *People v. Casco*, 844 Phil. 124, 132 (2018) [Per J. Caguioa, Second Division].

[56] 931 Phil. 945 (2022) [Per J. Rosario, En Banc].

[57] *Id.* at 945.

[58] 904 Phil. 791 (2021) [Per J. J. Lopez, Third Division].

[59] *Id.* at 808.

[60] *Rollo*, p. 28.

[61] 839 Phil. 598 (2018) [Per J. Peralta, En Banc].

[62] *Id.* at 621-622.

[63] 686 Phil. 1024 (2012) [Per J. Sereno, Second Division].

[64] *Id.* at 1052-1053.

[65] *Nisperos v. People*, 931 Phil. 945 (2022) [Per J. Rosario, En Banc].

[66] G.R. No. 276735, April 7, 2025 [Per J. Singh, Third Division].

[67] *Id.* at 17. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[68] 832 Phil. 992 (2018) [Per J. Caguioa, Second Division].

[69] *Id.* at 1015.

[70] 856 Phil. 62 (2019) [Per J. Carpio, Second Division].

[71] *Id.* at 79-80.

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