



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R. No. 243796**

Present:

*-versus-*

CAGUIOA,  
 REYES, J., JR.,  
 LAZARO-JAVIER,  
 LOPEZ, and  
 GAERLAN, JJ.\*

**ROWENA BUNIEL y RAMOS**  
**and ROWENA SIMBULAN y**  
**ENCARNADO,**

Promulgated:

Accused,

SEP 08 2020

**ROWENA BUNIEL y RAMOS,**  
 Accused-Appellant.

X-----X

**R E S O L U T I O N**

**LOPEZ, J.:**

For consideration of this Court is the Decision<sup>1</sup> dated May 31, 2017 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 08192, which affirmed *in toto* the Joint Decision<sup>2</sup> dated March 16, 2016 of the Regional Trial Court, Branch 13 of the City of Manila, in Criminal Case Nos. 12-291642 and 12-291643, finding the accused-appellant Rowena Buniel y Ramos (in Criminal Case No. 12-291642) guilty of violation of Section 5,<sup>3</sup> Article II of Republic Act (RA) No. 9165.<sup>4</sup>

\* Per raffle dated June 29, 2020.

<sup>1</sup> *Rollo*, pp. 2-27; penned by Associate Justice Fernanda Lampas Peralta, with the concurrence of Associate Justices Jane Aurora C. Lantion and Victoria Isabel A. Paredes. See also *CA rollo*, pp. 112-136.

<sup>2</sup> *CA rollo*, pp. 58-65; penned by Judge Emilio Rodolfo Y. Legaspi III. See also records, pp. 209-217.

<sup>3</sup> SEC. 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty x x x shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

<sup>4</sup> 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, June 7, 2002.

## ANTECEDENTS

Rowena Buniel y Ramos a.k.a “Weng” and Rowena Simbulan y Encarnado were separately charged with Illegal Sale and Illegal Possession of Dangerous Drugs, respectively, in two informations that read:

**Criminal Case No. 12-291642**  
***Illegal sale of dangerous drugs***

The undersigned accuses **ROWENA BUNIEL y RAMOS @ “WENG”** of a violation of Section 5, Article II, [RA No.] 9165, committed as follows:

That on or about **May 30, 2012** in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, trade, deliver, transport or distribute any dangerous drug did then and there willfully, unlawfully and knowingly sell or offer for sale to a police officer/poseur buyer **one (1) heat-sealed transparent plastic sachet marked as “TK” containing ZERO POINT ONE ZERO FIVE (0.105) gram** of white crystalline substance known as “shabu”, which after a qualitative examination gave positive result to the test for methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>5</sup> (Emphasis in the original.)

**Criminal Case No. 12-291643**  
***Illegal possession of dangerous drugs***

The undersigned accuses **ROWENA SIMBULAN y ENCARNADO** of a violation of Section 11(3), Article II, [RA No.] 9165, committed as follows:

That on or about **May 30, 2012**, in the City of Manila, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in her possession and under her custody and control **one (1) heat-sealed transparent plastic sachet marked as “TK1” containing ZERO POINT ONE FOUR ZERO (0.140) gram** of white crystalline substance commonly known as “shabu”, which after a qualitative examination gave positive result to the test for methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>6</sup> (Emphasis in the original.)

The two cases were consolidated.<sup>7</sup> On June 21, 2012, both accused were arraigned and they pleaded not guilty to their respective charges.<sup>8</sup> Joint trial then ensued.

The prosecution presented Police Officer (PO) 2 Dennis Reyes as witness. Meanwhile, the parties agreed to stipulate on the testimony of

<sup>5</sup> Records, p. 2.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.* at 1-3.

<sup>8</sup> *Id.* at 50, 51; and pp. 52 and 54.

forensic chemist Police Chief Inspector (PCI) Elisa G. Reyes (PCI Reyes),<sup>9</sup> PO3 Archie Bernabe (PO3 Bernabe),<sup>10</sup> PO3 John Alfred Taruc (PO3 Taruc),<sup>11</sup> PO3 Modesto Bornel, Jr. (PO3 Bornel),<sup>12</sup> PO3 Christopher Palapal (PO3 Palapal)<sup>13</sup> and Rene Crisostomo.<sup>14</sup>

The version of the prosecution is that, in the afternoon of May 30, 2012, a confidential informant arrived at the Manila Police District (MPD), District Anti-Illegal Drugs, Special Task Group (DAID-SOTG) and reported that he made a deal with a certain Weng for the delivery of sample *shabu* worth ₱1,000.00.<sup>15</sup> According to the informant, he agreed to meet with Weng at Tiago Street corner Karapatan Street, Sta. Cruz, Manila at 10:00 p.m. of the same day.<sup>16</sup> With this information, the DAID-SOTG organized a buy-bust operation composed of Police Inspector Eduardo Vito Pama, PO2 Reyes, PO3 Taruc, PO3 Bornel and PO3 Palapal.<sup>17</sup> During the briefing, PO2 Reyes was designated as the *poseur-buyer*.<sup>18</sup> He was provided with the buy-bust money, a 1000-peso<sup>19</sup> bill, which he marked with his initials "DR."<sup>20</sup> Meanwhile, PO3 Taruc prepared the Authority to Operate<sup>21</sup> and Pre-Operation Report,<sup>22</sup> and the team coordinated with the Philippine Drug Enforcement Agency.<sup>23</sup>

At about 9:30 p.m., the buy-bust team and the informant went to Tiago Street corner Karapatan Street, Sta. Cruz, Manila to conduct the buy-bust. They arrived at around 10:00 p.m.<sup>24</sup> PO3 Taruc, Bornel and Palapal alighted from the vehicle first and strategically positioned themselves at about 15-20 meters from the area.<sup>25</sup> PO2 Reyes and the informant alighted next and they proceeded to the agreed place.<sup>26</sup>

At that time, there were no people around and it was drizzling.<sup>27</sup> After a while, PO2 Reyes saw two women coming from Tiago Street.<sup>28</sup> The informant whispered to PO2 Reyes that the small woman sporting short hair and wearing walking shorts and t-shirt was Weng.<sup>29</sup> The informant

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<sup>9</sup> *Id.* at 74-76.

<sup>10</sup> *Id.* at 115-116.

<sup>11</sup> *Id.* at 120-121.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 139-143.

<sup>14</sup> *Id.* at 127-128.

<sup>15</sup> TSN, January 17, 2013, p. 5. See also Prosecution's Exhibits, pp. 5-6.

<sup>16</sup> Prosecution's Exhibits, p. 5.

<sup>17</sup> *Id.* at 5-6.

<sup>18</sup> TSN, January 17, 2013, p. 6.

<sup>19</sup> Prosecution's Exhibits, p. 16.

<sup>20</sup> TSN, January 17, 2013, pp. 6-7.

<sup>21</sup> Prosecution's Exhibits, p. 11.

<sup>22</sup> *Id.* at 12.

<sup>23</sup> TSN, January 17, 2013, p. 7.

<sup>24</sup> *Id.* at 4-5, 9. See also records, pp. 120-121; p. 139.

<sup>25</sup> *Id.* at 9-10.

<sup>26</sup> *Id.* at 10.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 10-11.

<sup>29</sup> *Id.* at 11-12.

approached Weng and they conversed briefly.<sup>30</sup> Meanwhile, Weng's companion was standing about two meters away from them and observing them.<sup>31</sup> Then, the informant introduced PO2 Reyes to Weng as the buyer of sample *shabu*.<sup>32</sup> Weng said "*akin na po*," referring to the payment for the *shabu*, to which PO2 Reyes handed her the buy-bust money.<sup>33</sup> Weng placed the money in her right pocket, took out from the same pocket a small plastic sachet containing white crystalline substance, and gave it to PO2 Reyes.<sup>34</sup> Upon receipt of the sachet, PO2 Reyes removed his bull cap, which was the pre-arranged signal that the sale was consummated.<sup>35</sup> The back-up team rushed to the area. PO2 Reyes searched Weng and recovered from her right pocket the buy-bust money.<sup>36</sup> Next, he frisked Weng's companion and recovered from her a small plastic sachet containing white crystalline substance.<sup>37</sup> As rain poured, the team decided to proceed to the police station.<sup>38</sup>

At the MPD DAID-SOTG office, Weng was identified as accused Buniel and her companion, Simbulan. In the presence of Rene Crisostomo, a member of the media connected with tabloid *Remate*,<sup>39</sup> PO2 Reyes marked the plastic sachet subject of the sale with "TK," and the sachet recovered from Simbulan with "TK1."<sup>40</sup> PO2 Reyes conducted the inventory<sup>41</sup> and prepared the Receipt of Property/Evidence Seized<sup>42</sup> and the Chain of Custody Form.<sup>43</sup> Meanwhile, PO3 Bernabe took photographs.<sup>44</sup> He also prepared the Requests for Inquest<sup>45</sup> and Laboratory Examination,<sup>46</sup> and Booking Sheets and Arrest Report.<sup>47</sup> Thereafter, PO2 Reyes turned over the plastic sachets and buy-bust money to PO3 Bernabe.<sup>48</sup>

PO3 Bernabe brought the specimens and the request for laboratory examination to the crime laboratory,<sup>49</sup> and were received by forensic chemist PCI Reyes.<sup>50</sup> PCI Reyes conducted qualitative examination on the two specimens and found the contents positive for Methamphetamine

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<sup>30</sup> *Id.* at 12-13.

<sup>31</sup> *Id.* at 13.

<sup>32</sup> *Id.* at 13-14.

<sup>33</sup> *Id.* at 14.

<sup>34</sup> *Id.* at 14-15.

<sup>35</sup> *Id.* at 16.

<sup>36</sup> *Id.* at 16-17.

<sup>37</sup> *Id.* at 17.

<sup>38</sup> *Id.* at 19.

<sup>39</sup> Records, pp. 127-128.

<sup>40</sup> TSN, September 13, 2013, p. 6. See also Prosecution's Exhibits, p. 14.

<sup>41</sup> *Id.* at 7.

<sup>42</sup> Prosecution's Exhibits, p. 13, Receipt of Property/Evidence Seized.

<sup>43</sup> *Id.* at 14.

<sup>44</sup> TSN, September 13, 2013, pp. 12-13. See also records, pp. 115-116; and Prosecution's Exhibits, p. 15.

<sup>45</sup> Prosecution's Exhibits, p. 4.

<sup>46</sup> *Id.* at 1.

<sup>47</sup> *Id.* at 7-8.

<sup>48</sup> TSN, September 13, 2013, pp. 7, 12. See also records, pp. 74-76; pp. 115-116, Order; and Prosecution's Exhibits, p. 14.

<sup>49</sup> Records, pp. 115-116. See also Prosecution's Exhibits, p. 1.

<sup>50</sup> *Id.* at 74-76.

Hydrochloride, also known as “*shabu*.”<sup>51</sup> She reduced her findings in Chemistry Report No. D-443-12.<sup>52</sup> Thereafter, PCI Reyes presented the specimens to the prosecutor and the defense counsel. After, she turned them over to the prosecution for safekeeping.<sup>53</sup>

For the defense, only Buniel testified. She denied the charges and claimed that on May 30, 2012, she went to Simbulan’s house to pick-up blood sugar strips for her mother. About 8:00 p.m., Simbulan accompanied her along Tiago Street to get a ride home when three men on board a van arrived. The men forced her and Simbulan to get on the car and they were brought to the MPD DAID-SOTG where they were investigated, mauled and forced to admit to selling dangerous drugs. Buniel averred that the police officers told her that they will cooperate with her in exchange for ₱300,000.00.<sup>54</sup>

On March 16, 2016, the trial court rendered a decision convicting Buniel of illegal sale of dangerous drugs and acquitting Simbulan of illegal possession.<sup>55</sup> The trial court found all the elements of the crime of illegal sale present and that the prosecution proved an unbroken chain of custody of the drugs. However, the court was not convinced on the guilt of Simbulan as the alleged look-out and co-conspirator in the drug deal.

Aggrieved, Buniel filed an appeal to the CA.<sup>56</sup>

On May 31, 2017, the CA affirmed Buniel’s conviction.<sup>57</sup> The CA found that the prosecution proved beyond reasonable doubt the elements of Illegal Sale of *shabu*. Most importantly, the prosecution was able to establish

<sup>51</sup> *Id.*; see also Prosecution’s Exhibits, p. 2.

<sup>52</sup> Prosecution’s Exhibits, p. 2.

<sup>53</sup> Records, p. 75; Minutes dated November 29, 2013, p. 114.

<sup>54</sup> TSN, September 8, 2015, pp. 3-11.

<sup>55</sup> CA *rollo*, p. 64. The dispositive portion of the Decision reads:

*In Criminal Case No. 12-291642*

WHEREFORE, in view of the foregoing, this Court finds the accused ROWENA BUNIEL y RAMOS GUILTY beyond reasonable doubt as principal for violation of Section 5 of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 (for pushing *shabu*) as charged and is sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a Fine in the amount of ₱500,000.00.

*In Criminal Case No. 12-291643*

WHEREFORE, in view of the foregoing, for failure of the prosecution to prove her guilt beyond reasonable doubt, this Court finds accused ROWENA SIMBULAN y ENCARNADO NOT GUILTY.

The plastic sachets of *shabu* are ordered confiscated in favor of the government to be disposed of in accordance with law.

This Court orders the immediate release from detention of ROWENA SIMBULAN y ENCARNADO unless she is held for a lawful cause.

Issue a mittimus order committing ROWENA BUNIEL y RAMOS to the Correctional Institution for Women for service of sentence.

Send copies of this Decision to the Director General of the Philippine Drug Enforcement Agency (PDEA), to the Director of the National Bureau of Investigation (NBI) and to the Director of the Manila Police District (EPD).

SO ORDERED. (Underscoring in the original.)

<sup>56</sup> CA *rollo*, pp. 15-16; records, pp. 220-221.

<sup>57</sup> *Rollo*, p. 27. The dispositive portion of the Decision reads:

**WHEREFORE**, the trial court’s Decision dated March 16, 2016 is **AFFIRMED** in toto.  
**SO ORDERED.**

an unbroken chain of custody. The CA found the explanation of PO2 Reyes that they were already wet from the rain, thus, they decided to conduct the marking and inventory at the police station, justifiable. Further, the alleged inconsistencies in the testimony of PO2 Reyes were inconsequential and had no bearing on the prosecution's cause. Also, that only Crisostomo witnessed the inventory-taking and did not present proof of his identity was not fatal because the parties stipulated on Crisostomo's testimony that he signed the Receipt of Inventory of Property/Evidence Seized as member of the media. Neither did the CA find the failure of the prosecution to present the original of the buy-bust money detrimental to the prosecution's case. The CA pointed out that neither law nor jurisprudence requires the presentation of any money used in the buy-bust operation. It was sufficient that the sale of the dangerous drug was adequately proven and that the *corpus delicti* was presented in court.

Hence, this appeal.<sup>58</sup> Accused-appellant and the People manifested that they will no longer file their respective Supplemental Briefs, taking into account the thorough discussions of the issues in their respective appeal briefs before the CA.<sup>59</sup>

### RULING

We acquit.

In cases involving dangerous drugs, the prosecution bears not only the burden of proving the elements of the crime, but also of proving the *corpus delicti* – the dangerous drug itself. The identity of the dangerous drug must be established beyond reasonable doubt.<sup>60</sup> Such proof requires an unwavering exactitude that the dangerous drug presented in court as evidence against the accused is the same as that seized from him in the first place.<sup>61</sup> It is thus crucial for the prosecution to establish the unbroken chain of custody of the seized item.

Section 21 (1) of RA No. 9165, the law applicable at the time of the commission of the crime,<sup>62</sup> outlines the procedure that police officers must adhere to maintain the integrity of the confiscated evidence, *viz.*:

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

<sup>58</sup> *Rollo*, pp. 28-29.

<sup>59</sup> *Id.* at 33; *id.* at 39.

<sup>60</sup> *People of the Philippines v. Suarez*, G.R. No. 223141, June 6, 2018, 865 SCRA 281, 290.

<sup>61</sup> *Id.*

<sup>62</sup> RA No. 10640 took effect on July 23, 2014. See OCA Circular No. 77-2015 dated April 23, 2015.

Specifically, Article II, Section 21 (a) of the Implementing Rules and Regulations of RA No. 9165 enumerates the procedures to be observed by the apprehending officers to confirm the chain of custody:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further that non-compliance with 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 of and custody over said items;

The law and implementing rules mandate that the physical inventory and photographing of the seized items must be in the presence of the accused and the following insulating witnesses: (1) a representative from the media; (2) the Department of Justice (DOJ); and (3) any elected public official, who shall sign the copies of the inventory and be given a copy.<sup>63</sup>

However, in earlier cases, we clarified that the deviation from the standard procedure in Section 21 will not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (1) there is justifiable ground for non-compliance; and (2) the integrity and evidentiary value of the seized items are properly preserved.<sup>64</sup> The prosecution must explain the reasons behind the procedural lapses and must show that the integrity and evidentiary value of the seized evidence had been preserved.<sup>65</sup> In *People v. Ramos*,<sup>66</sup> this Court explained that in case the presence of any or all the insulating witnesses was not obtained, the prosecution must allege and prove not only the reasons for their

<sup>63</sup> Under Section 21, Article II, RA No. 9165, as amended by RA No. 10640, it is now mandated that the conduct of physical inventory and photograph of the seized items must be in the presence of (1) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) with an elected public official and (3) a representative of the National Prosecution Service or the media who shall sign the copies of the inventory and be given a copy thereof. See also *People v. Bangalan*, G.R. No. 232249, September 3, 2018, 878 SCRA 533, where the Supreme Court clarified that the inventory and photography shall be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (1) if prior to the amendment of RA No. 9165 by RA No. 10640, "a representative from the media AND the Department of Justice, and any elected public official"; or (b) if **after** the amendment of R.A. No. 9165 by RA No. 10640, "an elected public official and a representative of the National Prosecution Service OR the media." (Emphasis and underscoring in the original.)

<sup>64</sup> *People v. Dela Cruz*, 591 Phil. 259, 271 (2008); *People v. Nazareno*, 559 Phil. 387 (2007); and *People v. Santos, Jr.*, 562 Phil. 458 (2007).

<sup>65</sup> *People v. Gadiana*, 644 Phil. 686, 694 (2010).

<sup>66</sup> G.R. No. 233744, February 28, 2018, 857 SCRA 175, quoted in *People v. Lim*, G.R. No. 231989, September 4, 2018.

absence, but also the fact that earnest efforts were made to secure their attendance:

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for “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.” Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for noncompliance. These considerations arise from the fact that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to state reasons for their noncompliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable. (Emphasis in the original; citation omitted.)

Indeed, the presence of the insulating witnesses is the first requirement to ensure the preservation of the identity and evidentiary value of the seized drugs.<sup>67</sup> In *People v. Caray*,<sup>68</sup> we ruled that the *corpus delicti* cannot be deemed preserved absent any acceptable explanation for the deviation from the procedural requirements of the chain of custody rule. Similarly, in *Matabilas v. People*,<sup>69</sup> sheer statements of unavailability of the insulating witnesses, without actual serious attempt to contact them, cannot justify non-compliance.

In this case, there is no showing that the marking and inventory were done in the presence of the three insulating witnesses. The first and second photographs submitted in evidence only show PO2 Reyes marking the plastic sachets in the presence of accused-appellant and Simbulan; while the third photograph, the buy-bust money and the marked plastic sachets.<sup>70</sup> That the marking and inventory were done without the insulating witnesses, is evident in the testimony of Crisostomo, who is a *kagawad* of another barangay and a media practitioner, that “he did not see the two (2) accused when he signed the inventory[.]”<sup>71</sup>

<sup>67</sup> See *People v. Flores*, G.R. No. 241261, July 29, 2019; *People v. Rodriguez*, G.R. No. 233535, July 1, 2019; and *People v. Maralit*, G.R. No. 232381, August 1, 2018.

<sup>68</sup> G.R. No. 245391, September 11, 2019.

<sup>69</sup> G.R. No. 243615, November 11, 2019.

<sup>70</sup> Prosecution's Exhibits, p. 15.

<sup>71</sup> Records, p. 127.



And, even if Crisostomo was present, he signed in the inventory as a member of the media.<sup>72</sup> In the Receipt of Property/Evidence Seized, Crisostomo is the lone signatory.<sup>73</sup> Meanwhile, the police officers did not explain the absence of a representative from the DOJ and another elected public official.<sup>74</sup> To be sure, there was no earnest effort, *nay* attempt, on the part of the buy-bust team to comply with the law and its implementing rules.

It cannot also escape our attention that it was a certain “PO2 J Rodriguez” who received the request for laboratory examination on the two specimens from PO2 Bernabe at 23:35 of May 30, 2012,<sup>75</sup> and not PCI Reyes as claimed by the prosecution. The stipulated testimony of PCI Reyes failed to show how “PO2 J Rodriguez” turned-over the items to her and that the integrity and evidentiary value of the specimens was preserved, *viz.*:

The prosecution and the defense also stipulated on the following as regards PCI Elisa G. Reyes and her testimony:

- 2.) On May 30, 2012, PCI Elisa G. Reyes received from PO3 Archie Bernabe a letter request for laboratory examination dated May 30, 2012 x x x requesting for the conduct of laboratory examination on two (2) heat-sealed transparent plastic sachets with markings TK and TK1 already marked as Exhibits B-1 to “B-2”;
- 3.) Upon receipt of the letter request for laboratory examination as well as the specimens, PCI Reyes conducted a laboratory examination:  
x x x x
- 6.) PCI Elisa G. Reyes will be able to identify the request for laboratory examination, chemistry report, and the specimens.
- 7.) Due execution, existence, and authenticity of the documents i.e. request for laboratory examination and the chemistry report.
- 8.) PCI Reyes presented the specimens as well as the request for laboratory examination to the prosecutor and to the defense counsel and were turned over to the prosecution for safekeeping purposes and were shown to the defense counsel and;
- 9.) PCI Reyes has no personal knowledge with regard to the actual source of the specimens.<sup>76</sup>

<sup>72</sup> Records, pp. 127-128.

<sup>73</sup> Prosecution’s Exhibits, p. 13.

<sup>74</sup> TSN, January 17, 2013, p. 6.

ATTY. DELOS SANTOS:

Q: There is [*sic*] **no representative from the DOJ** who witness [*sic*] the markings?

A: **None Sir.**

Q: How about an **elected Brgy. Official**?

A: Also **none Sir.** (Emphasis supplied.)

<sup>75</sup> Prosecution’s Exhibits, p. 1.

<sup>76</sup> Records, p. 75.

In *People v. Pajarin*,<sup>77</sup> this Court ruled that in case the parties agreed to dispense with the attendance and testimony of the forensic chemist, it should be stipulated that the forensic chemist would have testified that he had taken the precautionary steps required to preserve the integrity and evidentiary value of the seized item, thus: (1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he resealed it after examination of the content; and (3) that he placed his own marking on the same to ensure that it could not be tampered with pending trial.<sup>78</sup>

Here, the stipulations do not reflect the manner of handling the drugs (1) after “PO2 J' Rodriquez” received the items from PO3 Bernabe; (2) when he turned them over to PCI Reyes; and (3) after PCI Reyes completed his qualitative examination and before they were presented in court. It was simply declared that PCI Reyes received the specimens from PO3 Bernabe and after examination, she presented the specimens to the prosecutor and the defense counsel. We stress that in order that the seized items may be considered credible, the prosecution must show, by records or testimony, the continuous whereabouts of the exhibit, from the moment the item was picked up to the time it is offered into evidence; in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession; the condition in which it was received and the condition it was delivered to the next link in the chain.<sup>79</sup> Such is not the case here.

Finally, the presumption of regularity of performance of official duty applies only when nothing in the record suggest that the law enforcers deviated from the standard conduct of official duty required by law.<sup>80</sup> It is not conclusive and it cannot, by itself, overcome the constitutional presumption of innocence. Thus, any taint of irregularity, as in this case, affects the whole performance and should make the presumption unavailable.<sup>81</sup>

Time and again, we emphasize that while zealousness on the part of law enforcement agencies in the pursuit of drug peddlers is indeed laudable, it is of paramount importance that the procedures laid down by law be complied with. The breaches in the procedure provided in Section 21, Article II of RA No. 9165 committed by police officers and left unexplained by the State, militate against the conviction of accused-appellant beyond reasonable doubt, as the integrity and evidentiary value of the *corpus delicti* had been compromised.

**FOR THESE REASONS**, the appeal is **GRANTED**. The Court of Appeals' Decision dated May 31, 2017 in CA-G.R. CR-HC No. 08192 is **REVERSED**. Rowena Buniel y Ramos is **ACQUITTED** in Criminal Case

<sup>77</sup> 654 Phil. 461 (2011), cited in *People v. Ambrosio*, G.R. No. 234051, November 27, 2019.

<sup>78</sup> *Id.* at 466.

<sup>79</sup> See *Malillin v. People*, 576 Phil. 576 (2008).

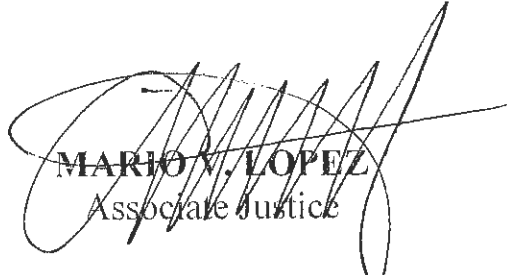
<sup>80</sup> *People v. Que*, G.R. No. 212994, January 31, 2019.

<sup>81</sup> *People v. Capuno*, 655 Phil. 226, 244 (2011).

No. 12-291642 and is **ORDERED IMMEDIATELY RELEASED** from detention, unless she is being lawfully held for another cause. Let entry of judgment be issued immediately.


Let a copy of this Resolution be furnished the Superintendent of the Correctional Institution for Women, Mandaluyong City, for immediate implementation. The Superintendent is likewise **ORDERED** to **REPORT** to this Court within five days from receipt of this Resolution the action that has been undertaken.

**SO ORDERED.**




**MARIO V. LOPEZ**  
Associate Justice


**WE CONCUR:**




**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**JOSE C. REYES, JR.**  
Associate Justice



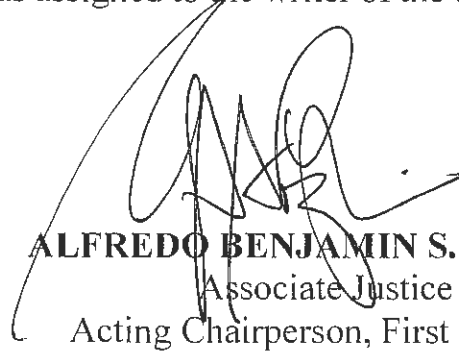
**AMY C. LAZARO-JAVIER**  
Associate Justice



**SAMUEL H. GAERLAN**  
Associate Justice

**ATTESTATION**

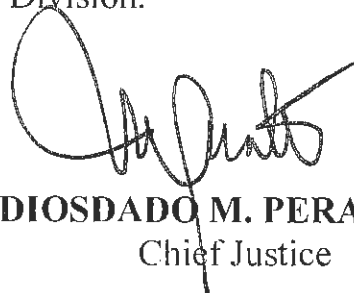
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Acting Chairperson, First Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
Chief Justice