



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**KHADAFI ALOYODAN y
MACAUCO AND RYAN
ABDUL MALIK y
TARANTANTO,**
Petitioners,

G.R. No. 254854

-versus-

**PEOPLE OF THE
PHILIPPINES,**
Respondent.

X-----X

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

G.R. No. 256455

-versus-

**SANAWIYA APASO*
CALOMBANG y MANUA
@ "Soraya Umpa",
KHADAFI ALOYODAN y
MACAUCO, JAMIEY**
SARIF y BALO, RYAN
ABDUL MALIK y
TARANTANTO,**
Accused-appellants.

Present:

**CAGUIOA, J., Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.**

Promulgated:

JAN 29 2026

Mi-POCB-H

* Also referred to as Ampaso in some parts of the *rollo*.

** Also referred to as Jamie in some parts of the *rollo*.

X-----X

DECISION**SINGH, J.:**

Before the Court are consolidated cases, docketed as G.R. Nos. 254854 and 256455, both assailing the Decision,¹ dated May 28, 2020, and the Resolution,² dated October 2, 2020, of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02075-MIN. The CA affirmed the Decision,³ dated July 24, 2018, of Branch 6, Regional Trial Court of Iligan City, Lanao Del Norte (RTC) in Criminal Case No. 06-18920, which found Sanawiya Apaso Calombang y Manua @ “Soraya Umpa” (Soraya), Jamiey Sarif y Balo (Jamiey), Khadafi Aloyodan y Macauco (Khadafi), and Ryan Abdul Malik y Tarantanto (Ryan) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165,⁴ or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

These cases stemmed from an Information filed before the RTC, charging Soraya, Jamiey, Khadafi, and Ryan, with violation of Section 5, Article II of Republic Act No. 9165 (**Illegal Sale of Dangerous Drugs**), allegedly committed as follows:

That on or about March 3, 2016, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring and confederating [with one another] and mutually helping each other, without authority of law, did then and there[,] willfully, unlawfully[,] and feloniously sell and deliver two [] self-sealing transparent plastic cellophane each containing white crystalline substance of [m]ethamphetamine [h]ydrochloride or “[s]habu”, a dangerous drug marked as GLL-BB1 3-3-2016 weighing 1008.4 g[rams] and GGL-BB2 3-3-2016 weighing 930.6 g[rams] or a total of 1,939.0 grams with six [] bundles of boodle money each containing P[H]P [500,000.00] topped with one [] genuine [PHP 1,000.00] bill for a total of P[H]P 3 [million].

¹ *Rollo* (G.R. No. 254854), pp. 47–62; *rollo* (G.R. No. 256455), pp. 9–24. Penned by Associate Justice Loida S. Posadas-Kahulugan and concurred in by Associate Justices Edgardo T. Lloren and Richard D. Mordeno of the Twenty-Second Division of the Court of Appeals, Cagayan de Oro City.

² *Rollo* (G.R. No. 254854), pp. 43–45; *rollo* (G.R. No. 256455), pp. 198–200. Penned by Associate Justice Loida S. Posadas-Kahulugan and concurred in by Associate Justices Edgardo T. Lloren and Richard D. Mordeno of the Twenty-Second Division of the Court of Appeals, Cagayan de Oro City.

³ *Rollo* (G.R. No. 254854), pp. 72–90; *rollo* (G.R. No. 256455), pp. 26–44. Penned by Judge Leonor S. Quiñones.

⁴ Approved on June 7, 2002.

Contrary to and in violation of Sec[ti]on] 5, Article II of Republic Act No. 9165.⁵

At their arraignment on April 19, 2016, Soraya, Jamiey, Khadafi, and Ryan each entered a plea of “not guilty” to the charge against them.⁶ The preliminary conference and pre-trial were held on May 16 and May 31, 2016, respectively.⁷

Thereafter, trial on the merits ensued.⁸

The Version of the Prosecution

During trial, the prosecution presented the following witnesses: (1) Police Inspector Harry John Gonzales (**P/Insp. Gonzales**); (2) Investigating Officer (**IO**) II Grace Lim (**IO2 Lim**); (3) IO1 Joshua Gulleban (**IO1 Gulleban**); (4) Assistant City Prosecutor II Jasmin Diaz (**Assistant Prosecutor Diaz**); and (5) Barangay Captain Gindo Calimpon (**Brgy. Capt. Calimpon**).⁹

The prosecution established that on March 2, 2016, at around 10:00 a.m., the Regional Office of the Philippine Drug Enforcement Agency (**PDEA**) in Cagayan de Oro City, Region X, received information from a confidential informant (**CI**) implicating Soraya in illegal drug activities.¹⁰ Investigation Agent (**IA**) V Benjamin Recites (**IA5 Recites**) validated the report, which was then relayed to Regional Director (**RD**) Wilkens Villanueva (**RD Villanueva**).¹¹ Acting on the validated report, RD Villanueva formed a buy-bust team to apprehend Soraya, designating IO2 Lim as the poseur-buyer and IO1 Gulleban as the arresting officer.¹²

On the morning of March 3, 2016, the buy-bust team proceeded to Iligan City to conduct surveillance and familiarize themselves with the agreed location of the transaction.¹³ By 1:00 p.m., the team strategically positioned themselves at the second-level parking area of Gaisano Mall, where the buy-bust operation was set to take place at around 3:00 p.m.¹⁴ IO2 Lim, IO1 Gulleban, and the CI waited inside a white Isuzu Crosswind.¹⁵

⁵ *Rollo* (G.R. No. 254854), p. 72.

⁶ *Id.* at 73.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Rollo* (G.R. No. 256455), p. 12.

¹¹ *Rollo* (G.R. No. 254854), p. 74.

¹² *Rollo* (G.R. No. 256455), pp. 12–13.

¹³ *Id.* at 13.

¹⁴ *Id.*

¹⁵ *Id.*



At around 6:00 p.m., Soraya arrived with Jamiey, Khadafi, and Ryan¹⁶ aboard a black Toyota Vios, which parked at an angle behind the Isuzu Crosswind.¹⁷ The group alighted and boarded the Crosswind.¹⁸ Ryan sat behind IO1 Gulleban, who was driving; Soraya sat beside IO2 Lim and the CI; while Jamiey and Khadafi occupied the rear seat.¹⁹ Soraya and the CI conversed in the Maranao dialect, after which the CI introduced IO2 Lim as the buyer.²⁰ When IO2 Lim inquired about the *shabu*, Soraya asked to see the money.²¹ IO2 Lim showed her a blue sling bag containing PHP 3,000,000.00 in boodle money, each bundle topped with a genuine PHP 1,000.00 bill.²² Soraya then instructed Ryan to hand her a gray backpack, which, upon opening, revealed two large sachets of *shabu*.²³

IO2 Lim received the gray backpack containing the *shabu* from Soraya and handed over the blue sling bag in exchange.²⁴ Soraya then passed the blue sling bag to Khadafi, seated behind her.²⁵ At this point, IO1 Gulleban activated the vehicle's hazard lights, the pre-arranged signal indicating that the transaction had been consummated.²⁶ The buy-bust team immediately approached and arrested Soraya, Jamiey, Khadafi, and Ryan.²⁷

Thereafter, IA5 Recites contacted, through phone calls, barangay officials, members of the media, and representatives of the Department of Justice to attend the inventory.²⁸ At around 7:30 p.m. on March 3, 2016,²⁹ IO2 Lim conducted the marking and inventory of the seized drugs at the place of arrest, in the presence of Assistant Prosecutor Diaz, Brgy. Capt. Calimpon, and media representative Jun Lino Bacus.³⁰ The two large heat-sealed sachets of suspected dangerous drugs were marked "GLL 3-3-2016" and "GLL-DD2-3-3-2016" and signed by IO2 Lim.³¹ Photographs were taken documenting the inventory, the seized *shabu*, the buy-bust money, the confiscated mobile phones of the arrested individuals, the witnesses to the inventory, the arresting team, and the vehicle used by Soraya, Jamiey, Khadafi, and Ryan.³²

The team then proceeded to the PDEA Regional Office in Cagayan de Oro City at around 9:00 p.m. on March 3.³³ IO2 Lim retained custody of the

¹⁶ *Rollo* (G.R. No. 254854), p. 75.

¹⁷ *Id.* at 85.

¹⁸ *Id.* at 75.

¹⁹ *Rollo* (G.R. No. 256455), p. 13.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Rollo* (G.R. No. 254854), p. 75.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Rollo* (G.R. No. 256455), p. 13.

²⁸ *Rollo* (G.R. No. 254854), p. 75.

²⁹ See TSN, Investigating Officer II Grace Lim, February 22, 2017, p. 45.

³⁰ *Rollo* (G.R. No. 256455), pp. 29–30.

³¹ See TSN, Investigating Officer II Grace Lim, February 22, 2017, p. 18.

³² *Id.*

³³ *Id.*



gray backpack containing the two large, heat-sealed sachets of *shabu*³⁴ until they reached their office at 11:45 p.m. of the same day.³⁵

Upon arrival, IO2 Lim prepared a request for a laboratory examination, which was submitted to the PDEA Region X Crime Laboratory at around 1:00 a.m. on March 4, 2016.³⁶ P/Insp. Gonzales, the assigned Forensic Chemist, thereafter conducted a qualitative examination, consisting of physical inspection, screening, and confirmatory testing³⁷ on the specimens contained in two large, heat-sealed sachets bearing the markings “GLL 3-3-2016” with signature and “GLL-DD2-3-3-2016” with signature.³⁸ P/Insp. Gonzales did not have personal knowledge as to who made the markings on the seized items.³⁹

The qualitative examination was completed at around 8:00 a.m. on March 4,⁴⁰ and the analysis confirmed that the specimens tested positive for methamphetamine hydrochloride, a dangerous drug, as reflected in Chemistry Report No. PDEA-DD-2016-010.⁴¹

Thereafter, in the absence of the evidence custodian, P/Insp. Gonzales initially secured the seized items in his steel cabinet.⁴² At around 9:00 a.m. of the same day, he transferred the seized evidence to the steel cabinet inside the evidence room.⁴³ The seized items were placed in a separate plastic container to prevent commingling with other evidence stored therein, and separate markings were made on the plastic container for identification.⁴⁴

The evidence was temporarily taken out of the evidence room on July 29, 2016, in preparation for the scheduled August 1 hearing, which did not proceed, and again on August 9, 2016, for the August 10, 2016 hearing.⁴⁵ It was thereafter turned over to the RTC for safekeeping.⁴⁶

The Version of the Defense

The defense presented Soraya, Jamiey, Khadafi, and Ryan to refute the allegations in the information and rebut the testimonies of the prosecution witnesses.

³⁴ *Id.*

³⁵ See TSN, Investigating Officer II Grace Lim, February 22, 2017, p. 45.

³⁶ *Rollo* (G.R. No. 256455), p. 30.

³⁷ *Id.* at 73.

³⁸ See TSN, Police Inspector Harry John Gonzales, August 10, 2016, p. 7.

³⁹ *Id.* at 8.

⁴⁰ *Id.* at 5.

⁴¹ *Rollo* (G.R. No. 256455), p. 30.

⁴² See TSN, Police Inspector Harry John Gonzales, August 10, 2016, p. 5.

⁴³ *Id.* at 3–4.

⁴⁴ *Id.* at 4.

⁴⁵ *Id.*

⁴⁶ *Id.*



Jamiey testified that she merely accompanied Soraya to Sanitarium Hospital for a medical checkup.⁴⁷ Before proceeding there, however, Soraya suggested that they stop by Gaisano Mall for snacks.⁴⁸ They arrived at around 1:30 p.m. and ate at Madel's Grill.⁴⁹ As they were about to leave, a woman and two unidentified men approached Soraya.⁵⁰ Moments later, armed men wearing "PDEA" shirts arrived, pointed their firearms at them, handcuffed them, and brought them to the parking area, where they were photographed beside a plastic bag containing what appeared to be salt.⁵¹ She claimed that she only learned during trial that she was being charged with the sale of *shabu*.⁵²

Soraya corroborated Jamiey's account and similarly denied the accusations against her.⁵³ She stated that while at Madel's Grill, her neighbor from Salvador, Lanao del Norte, Khadafi, approached her.⁵⁴ Thereafter, armed men she identified as PDEA agents arrived, surrounded, and handcuffed them without explanation.⁵⁵ They were led to the parking area, where she saw cash and a white crystalline substance resembling *tawas* laid out on a table.⁵⁶ She and the others were later brought to Cagayan de Oro City for detention.⁵⁷

Khadafi, in turn, testified that he went to Gaisano Mall with Ryan and Ryan's pregnant wife to buy vitamins.⁵⁸ While waiting outside a restaurant, he saw Soraya and approached her.⁵⁹ Armed men suddenly appeared, ordered them to lie face down, and handcuffed Soraya and her companion.⁶⁰ They were then brought to the second-level parking area, where he saw bundles of money and two plastic bags containing a salt-like substance inside a vehicle compartment.⁶¹

Ryan's testimony corroborated Khadafi's version of events.⁶² He added that while photographs were being taken, someone noticed the car key hanging from his waist.⁶³ The key was taken from him, and he later learned that his black Toyota Vios had been driven to the second-level parking area by an unidentified person.⁶⁴

⁴⁷ *Rollo* (G.R. No. 256455), p. 79.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* at 80.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* at 81.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*



The Ruling of the RTC

In its Decision, dated July 24, 2018, the RTC found Soraya, Jamiey, Khadafi, and Ryan guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165.⁶⁵ The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the Court hereby finds the accused SANAWIYA AMPASO CALOMBANG y Manua *alias* “Soraya Umpa,” JAMIEY SARIF y Balo, KHADAFI ALOYODAN y Macauco and RYAN ABDUL MALIK y Tarantanto, GUILTY beyond reasonable doubt for violation of Section 5, Article II of Republic Act No. 9165, and are sentenced to suffer the penalty of life imprisonment and to pay a fine of P[HP] 500,000.00.

The accused had been under preventive imprisonment since March 21, 2016. The period of such imprisonment shall be credited in full in the service of their sentence.

Meanwhile Exhibits “E” and “E-1” relating to the drug evidence; Exhibits “F” to “F-5” referring to the boodle money topped with original P[HP] 1,000.00 bills; Exhibit “L” referring to the blue sling bag; and Exhibit “M” referring to the gray [backpack], are all CONFISCATED IN FAVOR OF THE GOVERNMENT.

PDEA-Region X is DIRECTED to retrieve from this Court the drug evidence subject of this case and to cause their proper disposition and destruction within [24] hours from receipt of the same pursuant to Item No. 7, Section 21, Article II of [Republic Act No.] 9165.

SO ORDERED.⁶⁶ (Emphasis in the original)

In convicting Soraya, Jamiey, Khadafi, and Ryan, the RTC held that the prosecution sufficiently proved all the essential elements of the illegal sale of *shabu*.⁶⁷ It found that the four accused were positively identified by the prosecution witnesses as the individuals who sold the *shabu* presented in court.⁶⁸ The marked money used in the buy-bust operation was presented, and the seized drugs were positively and categorically identified in open court.⁶⁹ The RTC further held that Soraya, in conspiracy with Jamiey, Khadafi, and Ryan, sold the *shabu* without authority, license, or prescription, as evidenced by their overt acts during the transaction.⁷⁰

The RTC likewise upheld the regularity of performance of duty by the police officers, there being no showing of any improper motive to falsely

⁶⁵ *Id.* at 89–90.

⁶⁶ *Id.*

⁶⁷ *Id.* at 88.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at 89.

testify against the accused.⁷¹ It also gave no credence to the bare denial of Soraya, Jamiey, Khadafi, and Ryan.⁷²

Soraya, Jamiey, Khadafi, and Ryan appealed their conviction to the CA.⁷³ In their Appellants' Brief, Khadafi and Ryan contended that the RTC erred in: (1) finding them guilty despite the absence of a legitimate buy-bust operation; (2) giving weight to the inconsistent testimonies of the prosecution witnesses; and (3) upholding the presumption of regularity in the performance of duty by the police officers.⁷⁴

For their part, Sanawiya and Jamiey argued that: (1) the chain of custody was not established; (2) their conviction, based on the inconsistent statements of the police officers, was improper; and (3) the integrity and evidentiary value of the seized items were not properly preserved.⁷⁵

The Ruling of the CA

The CA, in its Decision, dated May 28, 2020, affirmed the ruling of the RTC.⁷⁶ It held that the inconsistencies in the prosecution's testimonies were minor and did not affect the finding of guilt.⁷⁷ It further ruled that the chain of custody remained unbroken, thereby preserving the integrity and evidentiary value of the *corpus delicti*.⁷⁸

The *fallo* of the CA Decision states:

WHEREFORE, premises considered, the instant appeal is DENIED. The Decision, dated [July 24,] 2018 of the Regional Trial Court, Branch 6, Iligan City, is AFFIRMED.

SO ORDERED.⁷⁹

Khadafi and Ryan jointly filed a Motion for Reconsideration, which was denied by the CA in its Resolution, dated October 2, 2020.⁸⁰

Thus, Khadafi and Ryan filed a Petition for Review on *Certiorari*⁸¹ (**Petition**) under Rule 45 of the Rules of Court, docketed as G.R. No. 254854.

⁷¹ *Id.* at 88.

⁷² *Id.* at 89.

⁷³ *Rollo* (G.R. No. 256455), p. 15.

⁷⁴ *Id.*

⁷⁵ *Id.* at 16.

⁷⁶ *Id.*

⁷⁷ *Id.* at 19.

⁷⁸ *Id.* at 20.

⁷⁹ *Id.* at 23.

⁸⁰ *Rollo* (G.R. No. 254854), p. 44.

⁸¹ *Id.* at 13–41.



Meanwhile, Soraya and Jamiey filed a Notice of Appeal,⁸² dated June 16, 2020. In its Resolution, dated July 7, 2020, the CA granted Soraya's and Jamiey's Notice of Appeal and ordered the elevation of the entire records to this Court.⁸³ The case was docketed as G.R. No. 256455.

In G.R. No. 254854, Khadafi and Ryan assail the rulings of the RTC and the CA which found them guilty of Illegal Sale of Dangerous Drugs.⁸⁴ They argue that their arrest was illegal, claiming that no buy-bust operation actually took place.⁸⁵ They further aver that the testimonies of the prosecution witnesses were inconsistent and conflicting on material points.⁸⁶ Khadafi and Ryan likewise contend that the mandatory requirements under Section 21 of Republic Act No. 9165 were not complied with, emphasizing that the insulating witnesses were allegedly contacted only after they had already been arrested and handcuffed.⁸⁷

In their Comment, the People of the Philippines (**the People**), through the Office of the Solicitor General (**OSG**), maintain that the CA correctly affirmed the trial court's finding of guilt against Khadafi and Ryan.⁸⁸ According to the People, the buy-bust operation was a valid and lawful means of arresting violators of Republic Act No. 9165, and Khadafi and Ryan failed to show that the buy-bust team was impelled by any improper motive.⁸⁹ Thus, the People assert that the presumption of regularity in the performance of official duties must prevail.⁹⁰ The People further argue that the police officers' narration of the incident deserves full credence, and that the alleged inconsistencies pointed out by Khadafi and Ryan are minor and inconsequential, insufficient to impair the credibility of the prosecution witnesses.⁹¹ Finally, the People submit that the requirements of Section 21 of Republic Act No. 9165 were complied with, and that the integrity and evidentiary value of the seized drugs were preserved and safeguarded.⁹²

In G.R. No. 256455, Soraya and Jamiey, as well as the People, adopted the arguments raised in their respective Briefs previously submitted before the CA.⁹³

In a Resolution,⁹⁴ dated October 4, 2023, the Court ordered the consolidation of the two cases.

⁸² *Rollo* (G.R. No. 256455), p. 4.

⁸³ *Id.* at 7.

⁸⁴ *Rollo* (G.R. No. 254854), p. 21.

⁸⁵ *Id.* at 23–24.

⁸⁶ *Id.* at 24.

⁸⁷ *Id.* at 30–33.

⁸⁸ *Id.* at 113.

⁸⁹ *Id.* at 120–122.

⁹⁰ *Id.* at 122.

⁹¹ *Id.* at 123–125.

⁹² *Id.* at 125–130.

⁹³ *Rollo* (G.R. No. 256455), pp. 51–53; 59–60.

⁹⁴ *Id.*, unpaginated.



The Issue

Did the prosecution sufficiently establish beyond reasonable doubt the guilt of Soraya, Jamiey, Khadafi, and Ryan for Illegal Sale of Dangerous Drugs, despite the alleged illegality of their arrests, inconsistencies in the prosecution witnesses' testimonies, and lapses in the chain of custody of the seized drugs?

The Ruling of the Court

Preliminarily, the Court notes that Khadafi and Ryan availed themselves of an improper mode of appeal in assailing the Decision of the CA affirming their conviction for Illegal Sale of Dangerous Drugs. As a general rule, appeals in criminal cases are brought to this Court through a petition for review on *certiorari* under Rule 45 of the Rules of Court.⁹⁵ An exception obtains where the CA imposes the penalty of *reclusion perpetua* or life imprisonment, in which case, the appeal shall be made by the filing of a notice of appeal before the CA.⁹⁶

In this case, the RTC, as affirmed by the CA, sentenced Khadafi and Ryan to suffer the penalty of life imprisonment. Thus, they should have filed a notice of appeal before the CA, rather than a Petition for Review on *Certiorari* before this Court.⁹⁷ Nonetheless, in the interest of substantial justice, the Court deems it proper to treat the Petition filed by Khadafi and Ryan as an ordinary appeal, and to resolve the substantial issues raised therein.

With the procedural matter thus settled, the Court now turns to the substantive issue of whether the prosecution proved beyond reasonable doubt the guilt of Soraya, Jamiey, Khadafi, and Ryan for Illegal Sale of Dangerous Drugs. In resolving this issue, the Court considers the totality of the evidence on record, mindful that in criminal prosecutions, the burden rests upon the State to establish each element of the offense with moral certainty, and that any reasonable doubt must be resolved in favor of the accused.⁹⁸

A careful review of the records reveals that the prosecution failed to discharge this burden.

*There exists doubt as to the conduct of
a valid buy-bust operation*

⁹⁵ See *Arambullo v. People*, 857 Phil. 828, 835 (2019) [Per J. Perlas-Bernabe, Second Division].

⁹⁶ *Id.*

⁹⁷ See *Nisperos v. People*, 931 Phil. 945, 950 (2022) [Per J. Rosario, *En Banc*].

⁹⁸ See *People v. Belmonte*, 835 Phil. 719, 734 (2018) [Per J. Martires, Third Division].



Khadafi and Ryan assert that their warrantless arrest and the subsequent search of their persons were illegal on the claim that no buy-bust operation actually took place.⁹⁹ They, together with Soraya and Jamiey, claim that they neither met nor transacted with the police officers and were merely at Gaisano Mall to have snacks.¹⁰⁰ Upon close scrutiny, the Court finds this defense more consistent with the evidence on record.

While a buy-bust operation is a recognized form of entrapment and, when properly conducted, may justify a warrantless arrest under 5(a), Rule 113 of the Rules on Criminal Procedure,¹⁰¹ the existence of such an operation must be established by credible and coherent evidence.

Here, the accounts of the prosecution witnesses fail to inspire belief.

According to IO2 Lim, the buy-bust team arrived at the designated parking area of Gaisano Mall at around 1:00 p.m. of March 3, 2016, even though the agreed meeting time was allegedly set at 3:00 p.m.¹⁰² The vehicle of Soraya, Jamiey, Khadafi, and Ryan, however, purportedly arrived only at around 6:00 p.m.¹⁰³ Thus, following the prosecution's own narration, the buy-bust team waited at the parking lot for approximately five hours. Notably, IO2 Lim admitted that there was no prior communication as to the specific vehicle to be used by Soraya, Jamiey, Khadafi, and Ryan, nor as to the exact time of their arrival.

Despite this lack of information, the prosecution would have the Court believe that the buy-bust team, nonetheless, knew that Soraya, Jamiey, Khadafi, and Ryan would arrive aboard a Toyota Vios, observe its arrival, and immediately identify it as the target vehicle, one that allegedly parked behind the Isuzu Crosswind used by the buy-bust team. The prosecution further expects the Court to accept that, after the lapse of at least five hours, a parking slot remained available directly behind the buy-bust team's vehicle in a busy mall parking area. This claim is made even as IO2 Lim admitted that there was no special arrangement with the management of Gaisano Mall for the conduct of the alleged operation.

Pertinent portions of IO2 Lim's testimony read:

Q: Since there was an assigned place where you agreed to meet, will you agree that [the] entirety of the success of [the] operation [depends on whether] you will be able to secure the parking area?

A: Yes, [S]ir.

⁹⁹ *Rollo* (G.R. No. 254854), pp. 23–24.

¹⁰⁰ *Rollo* (G.R. No. 256455), pp. 79–80.

¹⁰¹ *See People v. Frias*, 853 Phil. 377, 385 (2019) [Per J. Lazaro-Javier, Second Division].

¹⁰² *Rollo* (G.R. No. 256455), p. 13.

¹⁰³ *Id.*



Q: Did you make any coordination with Gaisano management in order to secure the area?

A: No, [S]ir.

Q: Just by chance that the particular area [] was free?

A: Yes, [S]ir.

Q: Did you agree on what vehicle you would park at the first slot?

A: We agreed, [S]ir.

Q: There was no agreement as to what vehicle [would the sellers of drugs use]?

A: No, [S]ir.

Q: There was no way of saying that the alleged [seller] of drugs will be riding in a Toyota Vios?

A: Yes, [S]ir.

Q: Is it true that the agreed time of your transaction was 3:00 p.m.?

A: Yes, [S]ir.

Q: You were already there [by] 1:00 p.m.?

A: Yes, [S]ir.

Q: How many Toyota Vios passed by at the first slot from 1:00 p.m. up to 6:00 p.m.?

A: I do not know, [S]ir.

....

Q: What made you wait until 6:00 p.m. of that day?

A: Because of our agreed transaction.

Q: But you do not know what vehicle was used, right?

A: Yes, [Ma'am].

Q: There was also no communication [or] update as to what time they will arrive[.] [I]s that correct...?

A: Yes, [Ma'am].

Q: You just[,] by chance[,] got lucky that they arrived?

A: Yes, [Ma'am].¹⁰⁴

¹⁰⁴ See TSN, Investigating Officer II Grace Lim, February 22, 2017, pp. 31–40.



More tellingly, IO2 Lim acknowledged that the Toyota Vios supposedly parked in a counter-flow manner for the duration of the transaction, despite existing prohibitions against such parking.¹⁰⁵ These circumstances strain credulity. They are neither consistent with ordinary human experience nor indicative of a carefully planned and coordinated law enforcement operation.

Taken together, the foregoing circumstances render the prosecution's version of events implausible and contrary to human nature. The Court is left to ask: how could the police officers have identified the accused's vehicle without prior coordination; how they waited for hours without communication from the alleged sellers; and how such an extended wait have occurred in a public mall parking area without any logistical arrangement. Notably, the prosecution offered no satisfactory explanation to address these material improbabilities.

In view of these material improbabilities, the Court finds that the prosecution failed to credibly establish that a legitimate buy-bust operation took place. Consequently, the arrest of Khadafi, Ryan, Soraya, and Jamiey cannot be justified as a valid warrantless arrest under Section 5(a), Rule 113 of the Rules on Criminal Procedure. The incidental search conducted pursuant thereto is likewise invalid, being the fruit of an unlawful arrest.

However, even assuming that a legitimate buy-bust operation was conducted and that the arrest and incidental search were valid, the guilt of Soraya, Jamiey, Khadafi, and Ryan was still not proven beyond reasonable doubt, as the prosecution failed to establish an unbroken chain of custody required by law.

A conviction for Illegal Sale of Dangerous Drugs require that the prosecution establish an unbroken chain of custody

To sustain a conviction for Illegal Sale of Dangerous Drugs, the prosecution must prove the identities of the buyer and the seller, the object of the sale, the consideration, and the delivery of the drug and the payment.¹⁰⁶ Equally indispensable is the presentation of the *corpus delicti*, which, in drug cases, is the dangerous drug itself.¹⁰⁷ Thus, the prosecution must establish with moral certainty that the substance seized during the buy-bust operation is the very same substance presented in court.¹⁰⁸

¹⁰⁵ *Id.*

¹⁰⁶ *See People v. Casa*, 928 Phil. 356, 364 (2022) [Per C.J. Gesmundo, *En Banc*].

¹⁰⁷ *See People v. Enad*, 780 Phil. 346 (2016) [Per J. Peralta, Third Division].

¹⁰⁸ *See People v. Belmonte*, 835 Phil. 719, 737 (2018) [Per J. Martires, Third Division].



This assurance is secured through strict compliance with the chain of custody rule under Section 21 of Republic Act No. 9165, which exists to eliminate any doubt as to the identity and integrity of the seized drugs.¹⁰⁹ Jurisprudence defines chain of custody as “the duly recorded authorized movements and custody of [the] seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment [at] each stage, from the time of seizure [or] confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.”¹¹⁰

To this end, the prosecution must account for four essential 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 seized drug by the apprehending officer to the investigating officer; third, the turnover by the investigating officer to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked drug by the forensic chemist to the court.¹¹¹

*The first link of the chain of custody
was not established*

The first link, seizure and marking, merits particular emphasis, as it sets the foundation for the integrity of the entire custodial chain. Marking is the first and most crucial step in proving an unbroken chain of custody in drug-related prosecutions.¹¹² As emphasized by the Court in *Nisperos v. People*:¹¹³

Marking is the first stage in the chain of custody and serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, thus preventing switching, “planting,” or contamination of evidence.¹¹⁴

While the requirement of marking is not explicitly found in the text of Section 21 of Republic Act No. 9165, it is firmly embedded in the regulatory framework implementing the law. Dangerous Drug Board Regulation No. 1, Series of 2002,¹¹⁵ mandates that seized items be properly marked for identification,¹¹⁶ and the PDEA Guidelines on the Implementing Rules and Regulations (**IRR**) of Section 21 of Republic Act No. 9165, as amended by

¹⁰⁹ See *People v. Casa*, 928 Phil. 356, 365 (2022) [Per C.J. Gesmundo, *En Banc*].

¹¹⁰ *Nisperos v. People*, 931 Phil. 945, 951 (2022) [Per J. Rosario, *En Banc*].

¹¹¹ *People v. Belmonte*, 835 Phil. 719, 737 (2018) [Per J. Martires, Third Division].

¹¹² *People v. Cabriole*, 902 Phil. 243 (2021) [Per J. Caguioa, First Division].

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

¹¹⁴ *Id.* at 954.

¹¹⁵ *Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment*, approved on October 18, 2002.

¹¹⁶ See Dangerous Drug Board Regulation No. 1, Series of 2002, sec. 2(b).



Republic Act No. 10640,¹¹⁷ likewise require the apprehending or seizing officer to mark the seized item immediately upon seizure and confiscation.¹¹⁸

Jurisprudence has consistently underscored the critical nature of this requirement. In *People v. Pulgado*,¹¹⁹ the Court acquitted the accused upon finding a deviation from the chain of custody, as the seized items were marked only at the police station. The Court held that while the failure of the apprehending team to strictly comply with the immediate marking requirement does not *ipso facto* render the seizure and custody over the items void, it is, nevertheless, incumbent upon the prosecution to account for the deviation by presenting a justifiable reason. In that case, the prosecution failed to do so and merely insisted that the marking requirement had been complied with because the items were marked at the police station. The Court found this explanation insufficient and ruled that the unexplained delay in marking was fatal to the prosecution's case.¹²⁰

Similarly, in *People v. Cabriole*,¹²¹ the Court acquitted the accused charged with illegal sale of dangerous drugs due to the apprehending officers' failure to immediately mark the seized evidence. The Court held that such failure cast reasonable doubt on the authenticity of the *corpus delicti*, thereby calling for the acquittal of the accused.¹²²

The above rulings emphasize that immediate marking is indispensable in preserving the identity of the seized item and in establishing, with moral certainty, that the item presented in court is the very same one allegedly seized from the accused.

Examined against these standards, the records reveal a fatal lapse in the first link of the chain. Both the affidavit and testimony of IO2 Lim show that the seized items were marked only after the arrival of the insulating witnesses at around 7:30 p.m., whereas the alleged arrest and seizure took place at around 6:00 p.m. The marking was admittedly done only after the arrival of the insulating witnesses:

Affidavit of Poseur Buyer

[T]hat at around 6:00 P.M., a black Toyota Vios arrived and parked near us. Soraya disembarked from the said black Toyota Vios vehicle together with three other companions and was then later identified... Soraya asked me if I have money. I told her I have it and showed the buy-bust boodle money. I then asked Soraya where the Shabu is. Soraya instructed

¹¹⁷ Approved on May 28, 2015.

¹¹⁸ See *PDEA Guidelines on the Implementing Rules and Regulations of Section 21 of Republic Act No. 9165, as amended by Republic Act No. 10640* (2015), sec. A.1.3.

¹¹⁹ 920 Phil. 69 (2022) [Per J. Perlas-Bernabe, Second Division].

¹²⁰ *Id.* at 77–79.

¹²¹ 902 Phil. 243 (2021) [Per J. Caguioa, First Division].

¹²² *Id.* at 254–258.



Ryan to remove his worn gray backpack and open the same to show to us its contents consisting of two (2) big transparent plastic ziplock cellophanes containing white crystalline substance believed to be shabu. Ryan handed the said gray backpack to Soraya who in turn handed the same to me... Soraya and her three companions were arrested and appraised of their constitutional rights.

*That, the marking and inventory of all the pieces of evidence were conducted at the place of arrest, witnessed by Brgy. Officials, representatives from the media, and Department of Justice.*¹²³ (Emphasis supplied)

Testimony of I02 Lim

Q: How was the arrest effected?

A: It was Agent Gulleban who effected the arrest of the accused Ryan.

Q: How about the other accused, how were they arrested?

A: They were neutralized by the back-up team.

....

Q: At what point did these four accused disembark the vehicle at the parking area?

A: When Agent Gulleban arrested Ryan and everything was neutralized[.]

Q: *What happened next after that?*

A: *Media representative, barangay officials were called[,] together with the representative from the National Prosecution Service to attend the conduct of inventory of all the evidence.*

....

Q: *What time was the inventory conducted at [the] Gaisano mall?*

A: *7:30 in the evening.*¹²⁴ (Emphasis supplied)

Read together, the prosecution's own evidence establishes that the arrest and seizure occurred at around 6:00 p.m., while the insulating witnesses arrived only at 7:30 p.m., or approximately one and a half hours later. Inevitably, the marking of the seized items, which was conducted together with the inventory, could not have been done immediately upon confiscation. Thus, the seized items remained unmarked for a significant period after seizure, in direct contravention of the requirement that marking be undertaken immediately upon confiscation.

¹²³ Records, Affidavit of Poseur Buyer, p. 131.

¹²⁴ See TSN, Investigating Officer II Grace Lim, February 22, 2017, pp. 17, 45.

Closely related to marking is the requirement of inventory and photographing, which is expressly governed by Section 21 of Republic Act No. 9165. Section 21 provides:

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

(1) The apprehending team having initial custody and control of the drugs shall, *immediately after seizure and confiscation*, physically inventory and photograph the same *in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official* who shall be required to sign the copies of the inventory and be given a copy thereof[.]¹²⁵ (Emphasis supplied)

At the time of the buy-bust operation in this case, which was conducted in 2016, Section 21 had already been amended by Republic Act No. 10640.¹²⁶ As amended, the law required the presence of only two insulating witnesses, namely, an elected public official and a representative of the National Prosecution Service or the media.

Here, there is no dispute that the inventory and photographing were witnessed by Assistant Prosecutor Diaz, Brgy. Capt. Calimpon, and media representative Jun Lino Bacus, which is more than what the law, as amended, requires. Nevertheless, numerical compliance alone does not suffice. Jurisprudence requires that the insulating witnesses be readily available at the place and time of apprehension to observe the marking, inventory, and photographing immediately after seizure.¹²⁷

In *Nisperos v. People*,¹²⁸ the Court stressed that insulating witnesses must be present at the place of transaction to witness the post-seizure procedures, and held that even a 30-minute delay constituted an unjustified deviation from the chain of custody. The Court emphasized that belated compliance defeats the very purpose of requiring insulating witnesses.¹²⁹

Here, the deviation is even more pronounced. The prosecution's own evidence establishes that the insulating witnesses were summoned only after

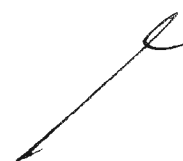
¹²⁵ Republic Act No. 9165 (2002), sec. 21.

¹²⁶ Approved on July 15, 2014.

¹²⁷ *Nisperos v. People*, 931 Phil. 945, 952–953 (2022) [Per J. Rosario, *En Banc*].

¹²⁸ *Id.*

¹²⁹ *Id.* at 953–954.



the buy-bust operation had already been concluded, and arrived approximately one and a half hours after the seizure. A buy-bust operation is a planned and pre-arranged transaction.¹³⁰ As such, the buy-bust team should have ensured the presence of the required witnesses prior to the conduct of the operation, not merely called for them after the dangerous drugs had already been confiscated.

Admittedly, non-compliance with the procedures set forth in Section 21 of Republic Act No. 9165, as amended, does not *ipso facto* render the seized drugs inadmissible.¹³¹ The law itself provides a saving clause,¹³² and jurisprudence has consistently held that such non-compliance will not render the seizure void and invalid provided that the prosecution satisfactorily establishes: (a) a justifiable ground for the deviation; and (b) the preservation of the integrity and evidentiary value of the seized items. The prosecution must explicitly acknowledge and explain the reasons for the procedural lapses.¹³³

Here, however, the prosecution offered no explanation for the delayed marking and the absence of insulating witnesses at the place of apprehension, relying instead on the presumption of regularity in the performance of official duties.

This reliance is misplaced.

As the Court has repeatedly held, the presumption of regularity cannot prevail over the constitutional presumption of innocence, nor can it cure an

¹³⁰ See *People v. Casa*, 928 Phil. 356, 385 (Per C.J. Gesmundo, *En Banc*).

¹³¹ See *People v. Belmonte*, 835 Phil. 719, 739 (2018) [Per J. Martires, Third Division].

¹³² See Republic Act No. 10640 (2014), which states:

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. (Emphasis supplied)

¹³³ *People v. Belmonte*, 835 Phil. 719, 739 (2018) [Per J. Martires, Third Division].



unexplained break in the chain of custody, particularly where the lapse pertains to the first and most crucial link.¹³⁴

Accordingly, the prosecution failed to establish the first essential link in the chain of custody. The unjustified delay in marking, coupled with the belated presence of the insulating witnesses, are sufficient to cast serious doubt on the identity and integrity of the *corpus delicti*.

Gaps in the other links

However, the deficiencies in the prosecution's evidence do not end with the first link.

A review of the records further reveals that the subsequent links in the chain of custody were likewise not properly established. IO2 Lim testified that the apprehending team arrived at their office at around 11:45 p.m.,¹³⁵ yet the request for laboratory examination was submitted only at around 1:00 a.m. of the following day.¹³⁶ The prosecution offered no explanation for this delay. During this intervening period, the records are silent as to the manner by which the seized items were safeguarded, who had custody thereof, and how their integrity was preserved. This unexplained gap further weakens the custodial chain from the apprehending officers to the forensic chemist.

The testimony of P/Insp. Gonzales, the Forensic Chemist, further compounds these procedural lapses. He admitted that after completing the qualitative examination, the seized items were initially placed in his personal steel cabinet at around 8:00 a.m.,¹³⁷ and were transferred only later, at around 9:00 a.m., to a filing cabinet in the evidence room when the designated custodian became available.¹³⁸ Significantly, he further admitted that the evidence stored in the filing cabinet were commingled with other items.¹³⁹

These admissions are troubling.

The temporary storage of the seized items in the forensic chemist's personal cabinet, followed by their placement in a filing cabinet containing commingled evidence, undermines the assurance that the items subjected to examination were the same items seized from the accused and later presented in court. Such handling defeats the very purpose of the chain of custody rule,

¹³⁴ *Id.* at 745–747.

¹³⁵ *See* TSN, Investigating Officer II Grace Lim, February 22, 2017, p. 22.

¹³⁶ *Id.* at 24.

¹³⁷ *See* TSN, Police Inspector Harry John Gonzales, August 30, 2016, p. 5.

¹³⁸ *Id.* at 4–5.

¹³⁹ *Id.* at 4, 12.



which is to ensure that the evidence is insulated from tampering, substitution, or contamination at every stage of its movement.

Taken together, these lapses are neither trivial nor technical. They strike at the very core of the chain of custody rule, whose purpose is to ensure that the *corpus delicti* is established with moral certainty. The prosecution neither offered a satisfactory explanation for these deviations nor demonstrated that the integrity and evidentiary value of the seized drugs were preserved despite the lapses.

Thus, the Court is constrained to hold that the prosecution failed to comply with the requirements of Section 21 of Republic Act No. 9165. These deficiencies cannot be cured by the presumption of regularity and are fatal to the prosecution's case.

ACCORDINGLY, the Petition for Review on *Certiorari* filed in G.R. No. 254854 and the Notice of Appeal filed in G.R. No. 256455 are **GRANTED**. The Decision, dated May 28, 2020, and the Resolution, dated October 2, 2020, of the Court of Appeals in CA-G.R. CR-HC No. 02075-MIN, are **REVERSED**. Sanawiya Apaso Calombang y Manua @ "Soraya Umpa," Jamiey Sarif y Balo, Khadafi Aloyodan y Macauco, and Ryan Abdul Malik y Tarantanto, are **ACQUITTED** of violation of Section 5, Article II of Republic Act No. 9165, as amended, for the failure of the prosecution to prove their guilt beyond reasonable doubt.

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**: (a) to cause the **IMMEDIATE RELEASE** of Sanawiya Apaso Calombang y Manua @ "Soraya Umpa," Jamiey Sarif y Balo, Khadafi Aloyodan y Macauco, and Ryan Abdul Malik y Tarantanto from custody, unless they are being held for some other lawful cause; and (b) to inform the Court of the action taken within five days from notice.

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.

The Branch 6, Regional Trial Court of Iligan City, Lanao Del Norte, is **DIRECTED** to turn over the seized sachets of methamphetamine hydrochloride to the Dangerous Drugs Board for destruction in accordance with law.

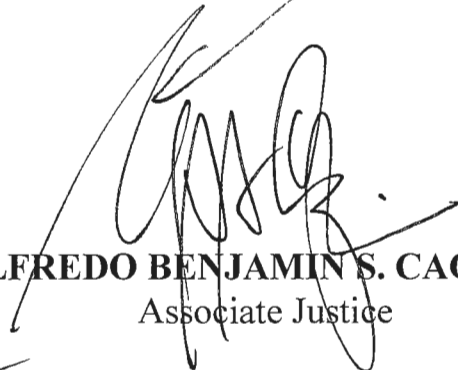
Let entry of judgment be issued immediately.

SO ORDERED.





MARIA FILOMENA D. SINGH
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

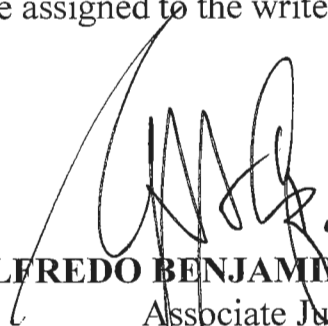

HENRI JEAN PAUL B. INTING
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

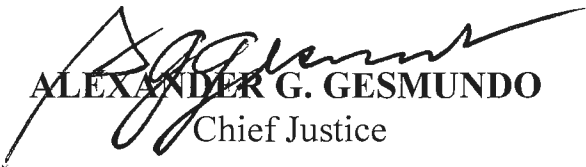
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

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



ALEXANDER G. GESMUNDO
Chief Justice

