



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-appellee,

G.R. No. 215340

Present:

CARPIO, *J.*, Chairperson,  
BRION,  
DEL CASTILLO,  
MENDOZA,\* and  
LEONEN, *JJ.*

-versus-

GLORIA CAIZ y TALVO,  
Accused-appellant.

Promulgated:

13 JUL 2016

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*Atty. Cabalag*

DECISION

LEONEN, *J.*:

Failure to prove the preservation of the integrity of the corpus delicti in dangerous drugs cases will lead to the acquittal of the accused on the ground of reasonable doubt.

Two Informations were filed against accused-appellant Gloria Caiz y Talvo (Caiz) for violation of Sections 5 and 11 of Republic Act No. 9165.<sup>1</sup>

The accusatory portion of the Information for violation of Section 5 of Republic Act No. 9165 states:

\* On official leave.

<sup>1</sup> Comprehensive Dangerous Drugs Act of 2002 (2002).

That on or about 11:00 o'clock in the morning of February 20, 2008 at Zone 1, Brgy. Pinmaludpod, Urdaneta City, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell one (1) heat sealed transparent plastic sachet containing Methamphetamine Hydrochloride (SHABU) weighing 0.05 gram, a dangerous drug.

CONTRARY to Sec. 5, Art. II of Republic Act 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."<sup>2</sup>

The accusatory portion of the Information for violation of Section 11 of Republic Act No. 9165 states:

That on or about 11:00 o'clock in the morning of February 20, 2008 at Zone 1, Brgy. Pinmaludpod, Urdaneta City, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in her possession, control and custody two (2) heat sealed transparent plastic sachet containing methamphetamine hydrochloride (SHABU) weighing 0.05 gram and 0.04 gram, with a total weight of 0.09 gram.

CONTRARY to Art. II, Sec. 11 of Republic Act 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."<sup>3</sup>

During the trial, Police Officer I Nesely Valle (PO1 Valle), Senior Police Officer I Ronald Patricio (SPO1 Patricio), and Police Officer III Michael Datuin (PO3 Datuin) were presented as witnesses.<sup>4</sup> They testified on the events "before, during[,] and after the buy-bust operation[.]"<sup>5</sup> Police Officer II Jeffrey Tajon (PO2 Tajon) of the Philippine National Police Crime Laboratory testified that he "received the request for laboratory examination at around 5:00 o'clock in the afternoon of February 20, 2008."<sup>6</sup>

PO1 Valle testified that on February 20, 2008, at around 7:00 a.m., an informant reported to the Special Operations Group of the Philippine National Police in Lingayen about the rampant sale of methamphetamine hydrochloride (shabu) in Barangay Pinmaludpod, Urdaneta City.<sup>7</sup>

A buy-bust operation team was immediately organized by the Special Operations Group. SPO1 Patricio and PO1 Valle were the poseur buyers, while Senior Police Officer II Meginio Garcia (SPO2 Garcia) prepared the marked money.<sup>8</sup>

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<sup>2</sup> *Rollo* p. 5, Court of Appeals Decision.

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

<sup>4</sup> *Id.*

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

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

<sup>7</sup> *CA rollo*, p. 67, Brief for plaintiff-appellee.

<sup>8</sup> *Rollo*, p. 3.

The Philippine National Police coordinated with the Urdaneta City Police Community Precinct at Barangay Pinmaludpod for the conduct of the buy-bust operation.<sup>9</sup> The buy-bust operation was scheduled on the same day, February 20, 2008.<sup>10</sup>

On February 20, 2008, the buy-bust team conducted a verification surveillance in Barangay Pinmaludpod and were able to observe Caiz's activities.<sup>11</sup>

After the verification surveillance, SPO1 Patricio, PO1 Valle, and the confidential informant went to Caiz's house at around 11:00 a.m. to conduct the buy-bust operation.<sup>12</sup> The informant introduced SPO1 Patricio and PO1 Valle to Caiz. As poseur buyers, SPO1 Patricio and PO1 Valle told Caiz that they would like to purchase ₱600.00 worth of shabu.<sup>13</sup> The marked money used consisted of one (1) ₱500.00 bill and one (1) ₱100.00 bill.<sup>14</sup> These bills were marked before the buy-bust operation.<sup>15</sup> The marking used was "RDP,"<sup>16</sup> the initials of SPO1 Patricio.<sup>17</sup>

After Caiz received the marked money, she handed a "small transparent plastic sachet containing white crystalline substance"<sup>18</sup> to SPO1 Patricio. SPO1 Patricio then removed his bonnet, which was the pre-arranged signal of the operation. SPO1 Patricio and PO1 Valle identified themselves to Caiz as police officers and proceeded to arrest her.<sup>19</sup>

Caiz was informed of her constitutional rights.<sup>20</sup> PO1 Valle frisked her right after she was arrested<sup>21</sup> and recovered the marked money and "two (2) more plastic sachets containing shabu from . . . [Caiz's] pocket."<sup>22</sup> Caiz was then brought to the Philippine National Police office in Lingayen<sup>23</sup> for interrogation and documentation.<sup>24</sup>

The items recovered from Caiz "were turned over by PO1 Valle to SPO1 Patricio for marking purposes[.]"<sup>25</sup>

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<sup>9</sup> Id.

<sup>10</sup> CA rollo, p. 51, Regional Trial Court Decision.

<sup>11</sup> Id. at 51-52.

<sup>12</sup> Rollo, p. 4.

<sup>13</sup> Id.

<sup>14</sup> CA rollo, p. 51.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Rollo, p. 4.

<sup>19</sup> Id.

<sup>20</sup> CA rollo, p. 52.

<sup>21</sup> Id.

<sup>22</sup> Rollo, p. 4.

<sup>23</sup> CA rollo, p. 68.

<sup>24</sup> Rollo, p. 4.

<sup>25</sup> Id.

The plastic sachet sold to the police officers was marked “RDP.”<sup>26</sup> The two (2) other plastic sachets confiscated from Caiz were marked “RDP1”<sup>27</sup> and “RDP2.”<sup>28</sup>

PO1 Valle testified that the seized sachets were marked by SPO1 Patricio immediately after Caiz was arrested.<sup>29</sup> On the other hand, SPO1 Patricio testified that the seized sachets were marked at the police station.<sup>30</sup>

After marking, SPO1 Patricio “surrendered the [marked plastic sachets] to their investigator, PO3 Michael Datuin[,] at their Lingayen Office for transmittal to the crime laboratory.”<sup>31</sup>

Forensic Chemist Police Senior Inspector Emelda Besarra Roderos issued an initial laboratory report stating that the contents of the heat-sealed transparent plastic sachet weighed 0.05 gram and tested positive for shabu.<sup>32</sup>

Caiz presented a different version of the facts. She testified that on February 20, 2008, at around 10:00 a.m.,<sup>33</sup> “she was putting her grandson to sleep . . . when she saw somebody enter her aunt’s yard.”<sup>34</sup>

She shouted and went to her mother’s house.<sup>35</sup> However, two (2) men were following her and asking for the marked money.<sup>36</sup>

Caiz informed the men that she had nothing.<sup>37</sup> Inside her mother’s house, she was “strip-searched by PO1 Valle.”<sup>38</sup> Still, PO1 Valle was unable to retrieve anything from her.<sup>39</sup> She was then invited by the police officers to go to the police station.<sup>40</sup> She could not refuse because a gun was pointed at her so they first went to the Barangay Hall at Pinmaludpod, Urdaneta City.<sup>41</sup> Caiz narrated that she stayed inside the vehicle and that there was another person left with her inside the vehicle. That person, whom she did

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<sup>26</sup> CA *rollo*, p. 36, Brief for accused-appellant.

<sup>27</sup> Id.

<sup>28</sup> Id.

<sup>29</sup> Id. at 42.

<sup>30</sup> Id.

<sup>31</sup> *Rollo*, p. 4.

<sup>32</sup> Id.

<sup>33</sup> CA *rollo*, p. 36.

<sup>34</sup> *Rollo*, p. 6.

<sup>35</sup> Id.

<sup>36</sup> Id.

<sup>37</sup> Id.

<sup>38</sup> Id.

<sup>39</sup> CA *rollo*, p. 54.

<sup>40</sup> Id.

<sup>41</sup> Id.

not name, showed her the plastic sachets allegedly confiscated from her.<sup>42</sup> Caiz stated that it was the first time she saw the plastic sachets.<sup>43</sup>

They then went to the office of the Special Operations Group of the Philippine National Police Office in Lingayen. Caiz testified that while she was there, “she was offered a meal and allowed to watch TV.”<sup>44</sup> After, they proceeded to the Urdaneta City Police Station. Caiz alleged that the seized sachets were marked at the police station.<sup>45</sup> A medical examination was conducted on her at a hospital.<sup>46</sup>

After two (2) days of incarceration at the police station,<sup>47</sup> Caiz was brought to the prosecutor’s office and was made to sign documents. She was then “committed to the Urdaneta City District Jail.”<sup>48</sup>

In the Decision dated July 18, 2012,<sup>49</sup> the trial court found Caiz guilty of violating Section 5 of Republic Act No. 9165, but dismissed the case for violation of Section 11.

The trial court reasoned that Caiz was positively identified by the prosecution’s witnesses as the seller of shabu. She sold “one heat-sealed plastic sachet containing white crystalline substance”<sup>50</sup> to PO1 Valle. The sachet was found to contain 0.05 gram of shabu. The seized sachet and the marked money were presented in court.<sup>51</sup>

The trial court held that the charge against Caiz for illegal possession of dangerous drugs was to be absorbed by the crime of illegal sale, thus:

As to the charge of illegal possession of dangerous drugs against said accused, the same is already absorbed in the crime of illegal sale. Based on the testimonies of the prosecution witnesses, accused was arrested and frisked immediately after the consummation of the sale transaction resulting in the recovery of two more plastic sachets of shabu from her pocket. The fact that the arresting officer recovered other plastic sachets containing shabu from the pocket of the accused during said illegal sale transaction is already immaterial – and will not justify the filing of a separate case of illegal possession as enunciated by the Court in the case of *People vs. Lacerna*. . . . Possession of prohibited drugs is generally

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<sup>42</sup> Id.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> Id. at 42.

<sup>46</sup> Id. at 37.

<sup>47</sup> Id. at 54.

<sup>48</sup> Id.

<sup>49</sup> Id. at 50–56. The case was docketed as Crim. Case Nos. U-15454 & 15455 and was raffled to Branch 48 of the Regional Trial Court of Urdaneta City, Pangasinan. The Decision was penned by Presiding Judge Gonzalo P. Marata.

<sup>50</sup> Id. at 55.

<sup>51</sup> Id.

inherent in the crime of illegal sale of dangerous drugs and that conviction for both offenses is not feasible.<sup>52</sup> (Citations omitted)

The dispositive portion of the Regional Trial Court Decision reads:

WHEREFORE, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs and the court sentences her to suffer the penalty of life imprisonment and to pay a fine of Php500,000.00.

The case of Illegal Possession of Dangerous Drugs filed against said accused is hereby DISMISSED.

The prohibited drugs presented in court as evidence is ordered forfeited in favor of the government and shall be forwarded to the PDEA Office for the proper disposition.

SO ORDERED.<sup>53</sup>

In her appeal before the Court of Appeals, Caiz argued that there were several procedural lapses committed by the police officers.<sup>54</sup> Section 86<sup>55</sup> of the Implementing Rules and Regulations of Republic Act No. 9165 requires coordination with the Philippine Drug Enforcement Agency, which the police officers did not do. The place where the seized sachets were marked was not proven because the police officers gave different testimonies.<sup>56</sup>

Further, the confiscation receipts prepared by SPO1 Patricio were not signed by Caiz, her representative or counsel, a representative from the media, a representative from the Department of Justice, or any public official.<sup>57</sup> Caiz was not given a copy.<sup>58</sup>

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<sup>52</sup> Id. at 55–56.

<sup>53</sup> Id. at 56.

<sup>54</sup> Id. at 40.

<sup>55</sup> Implementing Rules and Regulations of Rep. Act No. 9165 (2002), sec. 86 provides:

SEC. 86. *Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions.* –

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(a) Relationship/Coordination between PDEA and Other Agencies. – The PDEA shall be the lead agency in the enforcement of the Act, while the PNP, the NBI and other law enforcement agencies shall continue to conduct the anti-drug operations in support of the PDEA; *Provided*, that the said agencies shall, as far as practicable, coordinate with the PDEA prior to anti-drug operations; *Provided, further*, that, in any case, said agencies shall inform the PDEA of their anti-drug operations within twenty-four (24) hours from the time of the actual custody of the suspects or seizure of said drugs and substances, as well as paraphernalia and transport equipment used in illegal activities involving such drugs and/or substances, and shall regularly update the PDEA on the status of the cases involving the said anti-drug operations; *Provided, furthermore*, that raids, seizures, and other anti-drug operations conducted by the PNP, the NBI, and other law enforcement agencies prior to the approval of this IRR shall be valid and authorized; *Provided, finally*, that nothing in this IRR shall deprive the PNP, the NBI, other law enforcement personnel and the personnel of the Armed Forces of the Philippines (AFP) from effecting lawful arrests and seizures in consonance with the provisions of Section 5, Rule 113 of the Rules of Court.

<sup>56</sup> CA *rollo*, p. 42.

<sup>57</sup> Id. at 43.

<sup>58</sup> Id.

Caiz claimed that there were no photographs of the seized sachets and the booking sheet of accused was prepared on the day after she was arrested.<sup>59</sup> The police officer who received the request for laboratory examination and the forensic chemist were not presented in court.<sup>60</sup> She also alleged that the prosecution was unable to show “who had the custody and safekeeping of the drugs after their examination and pending their presentation in court.”<sup>61</sup>

On the other hand, the Office of the Solicitor General argued that the trial court correctly convicted Caiz because the prosecution was able to prove that the sale of illegal drugs took place, and the items seized were presented in evidence.<sup>62</sup>

In addition, the required procedure in handling the seized items was substantially complied with. The police officers who conducted the buy-bust operation coordinated with the Philippine Drug Enforcement Agency.<sup>63</sup> The Office of the Solicitor General likewise argued that non-compliance with Section 21 of Republic Act No. 9165 “would not necessarily render the evidence obtained from the drug operation as inadmissible, but it would only affect the merit or probative value of such evidence.”<sup>64</sup>

The Office of the Solicitor General claimed that although there were inconsistencies in the testimonies of PO1 Valle and SPO1 Patricio on where the seized item was marked, the inconsistency “[did] not affect the credibility of the witnesses.”<sup>65</sup> The inconsistencies in their testimonies referred to trivial and insignificant matters.<sup>66</sup>

On the confiscation receipts, the Office of the Solicitor-General cited *People v. Rosialda*<sup>67</sup> in that “[t]he failure of the prosecution to show that the police officers conducted the required physical inventory and photograph of the evidence confiscated pursuant to said guidelines, is not fatal and does not automatically render accused-appellant’s arrest illegal or the items seized/confiscated from him inadmissible.”<sup>68</sup>

On the non-presentation of the forensic chemist, the Office of the

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<sup>59</sup> Id.

<sup>60</sup> Id. at 45.

<sup>61</sup> Id. at 46.

<sup>62</sup> Id. at 69–70.

<sup>63</sup> Id. at 78.

<sup>64</sup> Id. at 82.

<sup>65</sup> Id. at 78.

<sup>66</sup> Id.

<sup>67</sup> 643 Phil. 712 (2010) [Per J. Velasco, Jr., First Division].

<sup>68</sup> Id. at 726–727.

Solicitor General cited *People v. Amansec*<sup>69</sup> and argued that the laboratory reports and chemistry reports are sufficient to prove that the chain of custody was not broken.<sup>70</sup>

The Court of Appeals affirmed the ruling of the Regional Trial Court.<sup>71</sup> It held that Caiz failed to present evidence that the chain of custody was broken.<sup>72</sup> It further held that non-compliance with Article II, Section 21 of Republic Act No. 9165 does not justify Caiz's acquittal. "What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused."<sup>73</sup>

The dispositive portion of the Court of Appeals Decision reads:

**WHEREFORE**, the foregoing considered, the instant appeal is hereby **DISMISSED** and the appealed Decision dated July 18, 2012 **AFFIRMED** *in toto*. No costs.

**SO ORDERED.**<sup>74</sup> (Emphasis in the original)

Caiz filed a Notice of Appeal on September 26, 2014.<sup>75</sup>

The Notice of Appeal was noted and given due course in the Court of Appeals' October 20, 2014 Resolution.<sup>76</sup> The case records were elevated to this Court on December 1, 2014.<sup>77</sup>

In the Resolution<sup>78</sup> dated January 28, 2015, this Court noted the records forwarded by the Court of Appeals and notified the parties that they could file their respective supplemental briefs within 30 days from notice.

The Office of the Solicitor General filed a Manifestation and Motion<sup>79</sup> stating that it would not file a supplemental brief since Caiz did not raise

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<sup>69</sup> 678 Phil. 831 (2011) [Per J. Leonardo-De Castro, First Division]: "Furthermore, there is nothing in Republic Act No. 9165 or in its implementing rules, which requires each and everyone who came into contact with the seized drugs to testify in court. As long as the chain of custody of the seized drug was clearly established to have not been broken and the prosecution did not fail to identify properly the drugs seized, it is not indispensable that each and every person who came into possession of the drugs should take the witness stand" (Id. at 857).

<sup>70</sup> CA *rollo*, p. 81.

<sup>71</sup> *Rollo*, pp. 2–15. The Decision was penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Remedios A. Salazar-Fernando (Chair) and Ramon R. Garcia of the Second Division, Court of Appeals, Manila.

<sup>72</sup> Id. at 13.

<sup>73</sup> Id. at 12.

<sup>74</sup> Id. at 14.

<sup>75</sup> CA *rollo*, p. 108.

<sup>76</sup> Id. at 111.

<sup>77</sup> *Rollo*, p. 1.

<sup>78</sup> Id. at 21–22.



new issues in her appeal.<sup>80</sup> Counsel for Caiz filed a Manifestation<sup>81</sup> informing this Court that it would no longer file a supplemental brief.

We resolve the following issues:

First, whether the guilt of accused-appellant Gloria Caiz y Talvo for violation of Section 5 of Republic Act No. 9165 was proven beyond reasonable doubt; and

Second, whether the rules on the chain of custody of the corpus delicti were observed.

We find for accused-appellant.

The prosecution was unable to prove the integrity of the corpus delicti. The non-compliance with the requirements of Section 21 of Republic Act No. 9165 was not justified.

## I

The elements of violation of Section 5<sup>82</sup> of Republic Act No. 9165 are:

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<sup>79</sup> Id. at 23–25.

<sup>80</sup> Id. at 23.

<sup>81</sup> Id. at 28–31.

<sup>82</sup> Rep. Act No. 9165 (2002), sec. 5 provides:

*SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, 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.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemical trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

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

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

(1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment. What is material is the proof that the transaction actually took place, coupled with the presentation before the court of the *corpus delicti*.<sup>83</sup> (Emphasis in the original)

The prosecution must also establish the integrity of the dangerous drug, being the *corpus delicti* of the case.<sup>84</sup>

Section 21 of Republic Act No. 9165, as amended by Republic Act No. 10640,<sup>85</sup> states the procedure to be observed by law enforcement officers in dangerous drugs cases:

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*

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<sup>83</sup> *People v. Casacop y de Castro*, G.R. No. 208685, March 9, 2015, 752 SCRA 151, 161 [Per J. Leonen, Second Division], citing *People v. Almodiel*, 694 Phil. 449, 460 (2012) [Per J. Carpio, Second Division].

<sup>84</sup> *People v. Enumerable y De Villa*, G.R. No. 207993, January 21, 2015, 747 SCRA 495, 506–507 [Per J. Carpio, Second Division].

<sup>85</sup> An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, Otherwise known as the “Comprehensive Dangerous Drugs Act of 2002” (2014).

*not render void and invalid such seizures and custody over said items.*

....

(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[.]*<sup>86</sup> (Emphasis supplied)

In view of the amendments to Republic Act No. 9165, the Implementing Rules and Regulations of Section 21 of Republic Act No. 9165 were also amended, thus:

SECTION 1. *Implementing Guidelines.* — 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:

A. *Marking, Inventory and Photograph; Chain of Custody Implementing Paragraph “a” of the IRR*

A.1. The apprehending or seizing officer having initial custody and control of the seized or confiscated dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, mark, inventory and photograph the same in the following manner:

- A.1.1. The marking, physical inventory and photograph of the seized/confiscated items shall be conducted where the search warrant is served.
- A.1.2. The marking is the placing by the apprehending officer or the poseur-buyer of his/her initial and signature on the item/s seized.
- A.1.3. In warrantless seizures, the marking of the seized items in the presence of the violator shall be done immediately at the place where the drugs were seized or at the nearest police station or nearest office of the apprehending officer/team, whichever is practicable. The physical

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<sup>86</sup> The italicized phrases are the amendments introduced by Rep. Act No. 10640.

inventory and photograph shall be conducted in the same nearest police station or nearest office of the apprehending officer/team, whichever is practicable.

- A.1.4. In cases when the execution of search warrant is preceded by warrantless seizures, the marking, inventory and photograph of the items recovered from the search warrant shall be performed separately from the marking, inventory and photograph of the items seized from warrantless seizures.
- A.1.5. The physical inventory and photograph of the seized/confiscated items shall be done in the presence of the suspect or his/her representative or counsel, with elected public official and a representative of the National Prosecution Service (NPS) or the media, who shall be required to sign the copies of the inventory of the seized or confiscated items and be given copy thereof. In case of their refusal to sign, it shall be stated "refused to sign" above their names in the certificate of inventory of the apprehending or seizing officer.
- A.1.6. A representative of the NPS is anyone from its employees, while the media representative is any media practitioner. The elected public official is any incumbent public official regardless of the place where he/she is elected.
- A.1.7. To prevent switching or contamination, the seized items, which are fungible and indistinct in character, and which have been marked after the seizure, shall be sealed in a container or evidence bag and signed by the apprehending/seizing officer for submission to the forensic laboratory for examination.
- A.1.8. In case of seizure of plant sources at the plantation site, where it is not physically possible to count or weigh the seizure as a complete entity, the seizing officer shall estimate its count or gross weight or net weight, as the case may be. If it is safe and practicable, marking, inventory and photograph of the seized plant sources may be performed at the plantation site. Representative samples of prescribed quantity pursuant to Board Regulation No. 1, Series of 2002, as amended, and/or Board Regulation No. 1, Series of 2007, as amended, shall be taken from the site after the seizure for laboratory examination, and retained for presentation as the *corpus delicti* of the seized/confiscated plant sources following the chain of custody of evidence.
- A.1.9. *Noncompliance, under justifiable grounds, with the requirements of Section 21 (1) of RA No. 9165, as amended, shall not render void and invalid such seizures and custody over the items provided the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team.*

A.1.10. *Any justification or explanation in cases of noncompliance with the requirements of Section 21 (1) of RA No. 9165, as amended, shall be clearly stated in the sworn statements/affidavits of the apprehending/seizing officers, as well as the steps taken to preserve the integrity and evidentiary value of the seized/confiscated items. Certification or record of coordination for operating units other than the PDEA pursuant to Section 86 (a) and (b), Article IX of the IRR of RA No. 9165 shall be presented.*

A.1.11. The chain of custody of evidence shall indicate the time and place of marking, the names of officers who marked, inventoried, photographed and sealed the seized items, who took custody and received the evidence from one officer to another within the chain, and further indicating the time and date every time the transfer of custody of the same evidence were made in the course of safekeeping until submitted to laboratory personnel for forensic laboratory examination. The latter shall continue the chain as required in paragraph B.5 below.

B. Laboratory Examination, Custody and Report Implementing Paragraphs “b” and “c” of the IRR

....

B.5. In any case, the chain of custody of the seized/confiscated items received from the apprehending officer/team, and examined in the forensic or crime laboratory shall be observed, where it shall document the chain of custody each time a specimen is handled, transferred or presented in court until its disposal and every individual in the chain of custody shall be identified following the laboratory control and chain of custody form. (Emphasis supplied)

## II

Here, the lapses of the police officers in the procedure for handling seized sachets containing dangerous drugs are numerous and unjustified such that there is reasonable doubt whether the integrity of the corpus delicti was preserved.

*People v. Kamad*<sup>87</sup> summarized the links in the chain of custody that must be established by the prosecution:

*[F]irst*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*,

<sup>87</sup> 624 Phil. 289 (2010) [Per J. Brion, Second Division].

the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>88</sup> (Emphasis in the original)

First, the place where the seized sachets were marked was not established with certainty.

Accused-appellant alleges that the marking of the sachets of shabu was not done at the place of arrest, but at the police station.<sup>89</sup> She claims that there was a nearer police station where the marking could have been done, specifically:

The marking of the alleged three (3) sachets of shabu with PI Patricio's initials . . . was not made at the place of arrest but only at the police station. This took place only after they have passed by the barangay hall of Pinmaludpod, then the police's safehouse located at Zone 5, Brgy. Pinmaludpod, then to the office of S[pecial] O[perations] G[roup] in Lingayen, Pangasinan and have brought the accused-appellant to the hospital for medical examination.<sup>90</sup>

On the other hand, the testimonies of the police officers reveal that they were confused as to the place where the seized sachets were marked. PO1 Valle testified:

Q: What did you [sic] Patricio do after you turned over those plastic sachets?

A: He placed marking.

Q: What marking?

A: RDP.<sup>91</sup>

On the other hand, SPO1 Patricio testified:

Q: By the way, Mr. Witness, where were you when you marked these 3 plastic sachets?

A: In our office, sir.<sup>92</sup>

PO1 Valle's testimony seems to imply that the seized sachets were marked at the place where the buy-bust operation was conducted. On the other hand, SPO1 Patricio testified that the seized sachets were marked at the police station.

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<sup>88</sup> Id. at 304.

<sup>89</sup> Accused-appellant did not specify whether the markings were done at the police station in Lingayen or at the police station in Urdaneta.

<sup>90</sup> CA *rollo*, p. 42.

<sup>91</sup> Id.

<sup>92</sup> Id.

The prosecution argues that the inconsistencies in the testimonies of the police officers strengthen the case since these show that the police officers were not rehearsed witnesses. In addition, the place where the seized sachets were marked is not an essential element in establishing that the sale of illegal drugs took place.<sup>93</sup>

Although it may be true that the place of marking is not an essential element, the failure to establish with certainty where the seized sachets were marked affects the integrity of the chain of custody of the corpus delicti.

*People v. Dahil*<sup>94</sup> has discussed the purpose and importance of marking evidence:

Marking after seizure is the starting point in the custodial link; hence, it is vital that the seized contraband be immediately marked because succeeding handlers of the specimens will use the markings as reference. The marking of the evidence 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, this, preventing switching, planting or contamination of evidence.<sup>95</sup> (Citations omitted)

Second, the police officers failed to have the confiscation receipts signed by accused-appellant, by her representative or counsel, by a representative from the media, the Department of Justice, or by an elected public official.<sup>96</sup> The police officers likewise failed to give a copy of the confiscation receipts to accused-appellant.<sup>97</sup> The prosecution does not refute these procedural lapses but argues that substantial compliance with the chain of custody rule is sufficient,<sup>98</sup> citing *People v. Rosialda*:<sup>99</sup>

*The failure of the prosecution to show that the police officers conducted the required physical inventory and photograph of the evidence confiscated pursuant to said guidelines, is not fatal and does not automatically render accused-appellant's arrest illegal or the items seized/confiscated from him inadmissible. Indeed, the implementing rules offer some flexibility when a proviso added 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 same provision clearly states as well, that it must still be shown that there exists justifiable grounds and proof

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<sup>93</sup> Id. at 78.

<sup>94</sup> G.R. No. 212196, January 12, 2015, 745 SCRA 221 [Per J. Mendoza, Second Division].

<sup>95</sup> Id. at 241.

<sup>96</sup> CA *rollo*, p. 43.

<sup>97</sup> Id.

<sup>98</sup> Id. at 79.

<sup>99</sup> 643 Phil. 712 (2010) [Per J. Velasco, Jr., First Division].

that the integrity and evidentiary value of the evidence have been preserved.

....

. . . The chain of custody requirement performs the function of ensuring that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed.

*To be admissible, the prosecution must show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.*<sup>100</sup> (Emphasis in the original)

In this case, the integrity of the corpus delicti is in doubt because the police officers cannot even state with certainty where the seized sachets were marked.

Third, none of the witnesses testified that the seized sachets were photographed. This leads us to believe that no photos of the seized sachets were taken by the buy-bust team.<sup>101</sup>

Fourth, accused-appellant's arrest was not immediately entered in the booking sheet.<sup>102</sup> SPO1 Patricio testified on cross-examination:

Q: After the arrest, Mr. Witness, you said and identified a while ago that you made a booking that was prepared by you?

A: It was prepared by me in the office, sir.

Q: At Lingayen?

A: Yes, sir.

Q: On what date was it prepared, Mr. Witness?

A: That date February 20.

Q: Showing to you the booking sheet you identified a while ago. Will you go over the same and tell us on what date was it prepared, Mr. Witness, according to the booking sheet? What date?

A: 21 February 2008, sir.

Q: And the arrest was made on February 2008?

A: Yes, sir.

Q: You said a while ago that it was made on the same date the booking sheet was prepared by you on the same date?

A: No, sir, 21. It was placed on the booking sheet.

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<sup>100</sup> Id. at 726–727, citing *People v. Rivera*, 590 Phil. 894, 913–914 (2008) [Per J. Chico-Nazario, Third Division].

<sup>101</sup> CA *rollo*, pp. 51–54.

<sup>102</sup> Id. at 43.



Q: So, it was made on the 21<sup>st</sup> not on February 20 (sic)?  
A: Yes, sir.<sup>103</sup>

The totality of the procedural lapses committed by the police officers leads this Court to doubt the integrity of the corpus delicti.

### III

Accused-appellant argues that the non-coordination of the buy-bust operation with the Philippine Drug Enforcement Agency is a procedural lapse that overturns the presumption of regularity in the performance of duties.<sup>104</sup>

The alleged non-coordination of the police officers with the Philippine Drug Enforcement Agency did not render the buy-bust operation invalid.

*People v. Rebotazo*<sup>105</sup> has discussed that Section 86<sup>106</sup> of Republic Act No. 9165 does not state any consequence in case a buy-bust operation is not coordinated with the Philippine Drug Enforcement Agency, thus:

It is a well-established rule of statutory construction that where great inconvenience will result from a particular construction, or great public interests would be endangered or sacrificed, or great mischief done, such construction is to be avoided, or the court ought to presume that such construction was not intended by the makers of the law, unless required by clear and unequivocal words.

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<sup>103</sup> Id. at 43–44.

<sup>104</sup> Id. at 41–42. Coordination with the Philippine Drug Enforcement Agency is a requirement under Section 86 of the Implementing Rules and Regulations of Republic Act No. 9165, as amended.

<sup>105</sup> 711 Phil. 150 (2013) [Per C.J. Sereno, First Division].

<sup>106</sup> Rep. Act No. 9165 (2002), sec. 86 provides:

Section 86. *Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions.* — The Narcotics Group of the PNP, the Narcotics Division of the NBI and the Customs Narcotics Interdiction Unit are hereby abolished; however they shall continue with the performance of their task as detail service with the PDEA, subject to screening, until such time that the organizational structure of the Agency is fully operational and the number of graduates of the PDEA Academy is sufficient to do the task themselves: *Provided*, That such personnel who are affected shall have the option of either being integrated into the PDEA or remain with their original mother agencies and shall, thereafter, be immediately reassigned to other units therein by the head of such agencies. Such personnel who are transferred, absorbed and integrated in the PDEA shall be extended appointments to positions similar in rank, salary, and other emoluments and privileges granted to their respective positions in their original mother agencies.

The transfer, absorption and integration of the different offices and units provided for in this Section shall take effect within eighteen (18) months from the effectivity of this Act: *Provided*, that personnel absorbed and on detail service shall be given until five (5) years to finally decide to join the PDEA.

Nothing in this Act shall mean a diminution of the investigative powers of the NBI and the PNP on all other crimes as provided for in their respective organic laws: *Provided, however*, That when the investigation being conducted by the NBI, PNP or any *ad hoc* anti-drug task force is found to be a violation of any of the provisions of this Act, the PDEA shall be the lead agency. The NBI, PNP or any of the task force shall immediately transfer the same to the PDEA: *Provided, further*, that the NBI, PNP and the Bureau of Customs shall maintain close coordination with the PDEA on all drug related matters.

As we see it, Section 86 is explicit only in saying that the PDEA shall be the “lead agency” in the investigations and prosecutions of drug-related cases. Therefore, other law enforcement bodies still possess authority to perform similar functions as the PDEA as long as illegal drugs cases will eventually be transferred to the latter. Additionally, the same provision states that PDEA, serving as the implementing arm of the Dangerous Drugs Board, “shall be responsible for the efficient and effective law enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemical as provided in the Act.” We find much logic in the Solicitor General’s interpretation that it is only appropriate that drugs cases being handled by other law enforcement authorities be transferred or referred to the PDEA as the “lead agency” in the campaign against the menace of dangerous drugs. Section 86 is more of an administrative provision. By having a centralized law enforcement body, *i.e.*, the PDEA, the Dangerous Drugs Board can enhance the efficacy of the law against dangerous drugs.<sup>107</sup>

This Court has ruled in other cases<sup>108</sup> that nothing in Section 86 states that non-coordination with the PDEA renders the buy-bust operation invalid.

#### IV

*Mallillin v. People*<sup>109</sup> emphasizes why proof of the chain of custody in dangerous drugs cases must be strictly complied with:

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases — by accident or otherwise — in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.<sup>110</sup>

The law recognizes that there may be instances when exact compliance with the required procedure is not observed. Thus, the

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<sup>107</sup> *People v. Rebotazo*, 711 Phil. 150, 177–178 (2013) [Per C.J. Sereno, First Division], citing *People v. Sta. Maria*, 545 Phil. 520, 531–532 (2007) [Per J. Garcia, First Division].

<sup>108</sup> See *People v. Salvador*, 726 Phil. 389, 403–405 (2014) [Per J. Del Castillo, Second Division]; *People v. Adrid*, G.R. No. 201845, March 6, 2013, 692 SCRA 683, 703–704 [Per J. Velasco, Jr., Third Division]; *People v. Mondejar*, 675 Phil. 91, 107 (2011) [Per J. Sereno, Second Division]; *People v. Roa*, 634 Phil. 437, 448–449 (2010) [Per J. Perez, Second Division].

<sup>109</sup> 576 Phil 576 (2008) [Per J. Tinga, Second Division]

<sup>110</sup> *Id.* at 588–589.

Implementing Rules and Regulations of Section 21 of Republic Act No. 9165, as amended, provides:

SECTION 1. *Implementing Guidelines.* — 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:

.....

A.1.9. Noncompliance, under justifiable grounds, with the requirements of Section 21 (1) of RA No. 9165, as amended, shall not render void and invalid such seizures and custody over the items provided the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team.

A.1.10. Any justification or explanation in cases of noncompliance with the requirements of Section 21 (1) of RA No. 9165, as amended, shall be clearly stated in the sworn statements/affidavits of the apprehending/seizing officers, as well as the steps taken to preserve the integrity and evidentiary value of the seized/confiscated items. Certification or record of coordination for operating units other than the PDEA pursuant to Section 86 (a) and (b), Article IX of the IRR of RA No. 9165 shall be presented.

Here, the prosecution does not offer any explanation why there were several procedural lapses. The prosecution's argument that there is a presumption that "official duty has been regularly performed"<sup>111</sup> will not suffice. Thus:

It needs no elucidation that the presumption of regularity in the performance of official duty must be seen in the context of an existing rule of law or statute authorizing the performance of an act or duty or prescribing a procedure in the performance thereof. The presumption, in other words, obtains only where nothing on record suggests that the law enforcers involved deviated from the standard conduct of official duty as provided for in the law. Otherwise, where the official act in question is irregular on its face, an adverse presumption arises as a matter of course.<sup>112</sup> (Citations omitted)

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<sup>111</sup> CA *rollo*, p. 73. RULES OF COURT, Rule 131, sec. 3(m) provides:  
SEC. 3. *Disputable presumptions.* — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

.....

(m) That official duty has been regularly performed[.]

<sup>112</sup> *People v. Gutierrez*, 614 Phil. 285, 298 (2009) [Per J. Carpio Morales, Second Division].

*People v. Garry dela Cruz*<sup>113</sup> acquitted the accused as the prosecution failed to establish the corpus delicti due to non-compliance with the rule on the chain of custody:

Non-compliance is tantamount to failure in establishing identity of corpus delicti, an essential element of the offenses of illegal sale and illegal possession of dangerous drugs. By failing to establish an element of these offenses, non-compliance will, thus, engender the acquittal of an accused.<sup>114</sup>

Courts are reminded to exercise a higher level of scrutiny when deciding cases involving miniscule amounts of dangerous drugs. There should be stricter compliance with the rule on the chain of custody when the amount of the dangerous drug is minute due to the possibility that the seized item was tampered.<sup>115</sup> We reiterate the words in *People v. Holgado*:<sup>116</sup>

It is lamentable that while our dockets are clogged with prosecutions under Republic Act No. 9165 involving small-time drug users and retailers, we are seriously short of prosecutions involving the proverbial “big fish.” We are swamped with cases involving small fry who have been arrested for miniscule amounts. While they are certainly a bane to our society, small retailers are but low-lying fruits in an exceedingly vast network of drug cartels. Both law enforcers and prosecutors should realize that the more effective and efficient strategy is to focus resources more on the source and true leadership of these nefarious organizations. Otherwise, all these executive and judicial resources expended to attempt to convict an accused for 0.05 gram of *shabu* under doubtful custodial arrangements will hardly make a dent in the overall picture. It might in fact be distracting our law enforcers from their more challenging task: to uproot the causes of this drug menace. We stand ready to assess cases involving greater amounts of drugs and the leadership of these cartels.<sup>117</sup>

**WHEREFORE**, premises considered, the Court of Appeals Decision dated August 29, 2014 in CA-G.R. CR-H.C. No. 06167 is **REVERSED** and **SET ASIDE**. Accused-appellant Gloria Caiz y Talvo is **ACQUITTED** for failure of the prosecution to prove her guilt beyond reasonable doubt. She is ordered immediately **RELEASED** from detention unless she is confined for any other lawful cause.

Let a copy of this Decision be furnished to the Superintendent of the Correctional Institution for Women, Mandaluyong City, for immediate implementation. The Superintendent of the Correctional Institution is **DIRECTED** to report to this Court, within five (5) days from receipt of this

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<sup>113</sup> G.R. No. 205821, October 1, 2014, 737 SCRA 486 [Per J. Leonen, Second Division].

<sup>114</sup> Id. at 496.

<sup>115</sup> *Mallillin v. People*, 576 Phil. 576, 588 (2008) [Per J. Tinga, Second Division].

<sup>116</sup> G.R. No. 207992, August 11, 2014, 732 SCRA 554 [Per J. Leonen, Third Division].

<sup>117</sup> Id. at 577.

Decision, the action she has taken. Copies shall also be furnished to the Director General of the Philippine National Police and to the Director General of the Philippine Drug Enforcement Agency for their information.

The Regional Trial Court is **DIRECTED** to turn over the seized sachet of methamphetamine hydrochloride to the Dangerous Drugs Board for destruction in accordance with law.

**SO ORDERED.**

  
**MARVIC M.V.F. LEONEN**  
Associate Justice

WE CONCUR:

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson


  
**ARTURO D. BRION**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

On official leave  
**JOSE CATRAL MENDOZA**  
Associate Justice

**ATTESTATION**

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

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second 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 Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice