Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ANTONIO U. SIO,
Petitioner,

-versus-

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 224935

Present:

LEONEN, *J., Chairperson,*
LAZARO-JAVIER,
LOPEZ, M.
LOPEZ, J., and
KHO, *JJ.*

Promulgated:
March 2, 2022
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DECISION

LEONEN, *J.*:

Search warrants require particular descriptions of the places to be searched and things to be seized in order to limit the discretion of the law enforcement officers in implementing these warrants. Further, when the implementation of the search warrant for a drug-related offense does not comply with Section 21 of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act, the evidence seized in the resulting search is inadmissible.

This Court resolves the Petition for Review on Certiorari[1] under Rule

[1] *Rollo*, pp. 12–41.

45 of the Rules of Court assailing the Decision[2] and Resolution[3] of the Court of Appeals, Manila. The Court of Appeals upheld the trial court's Order[4] denying Antonio Sio (Sio)'s omnibus motion for judicial determination of probable cause and to hold in abeyance the issuance of warrant of arrest. Sio was charged with illegal possession of shabu and drug paraphernalia, in violation of Republic Act No. 9165.

In 2010, Police Senior Inspector Paulino G. Raguindin (PS/Insp. Raguindin) of the Philippine National Police Anti-Illegal Drugs Special Operations Task Force applied[5] for a search warrant with the Office of the Clerk of Court of the Manila Regional Trial Court. In his application, he alleged that Sio, a businessperson, possessed an undetermined quantity of shabu; a Toyota Camry with plate number ZYR 468 and a Honda Civic with plate number ZGS 763, both used in illegal trafficking of dangerous drugs; and other vital documents. The basis of his application was information from a confidential informant, who claimed that Sio was selling and distributing shabu, and was using his Dalahican, Lucena City residence to store the drugs prior to distribution.[6]

The Manila Regional Trial Court issued the October 22, 2010 Search Warrant[7] after a hearing with PS/Insp. Raguindin and his witness, Police Officer III Pepito C. San Pedro.[8]

On October 24, 2010, task force operatives implemented the search warrant against Sio. The search yielded an undetermined quantity of suspected shabu, a .45 caliber Remington with 18 live ammunitions, and two magazines. Police also confiscated a CRV Honda vehicle with plate number XPX 792 and a Toyota Camry with plate number ZRY 758.[9]

The Philippine National Police Crime Laboratory conducted qualitative examination on the suspected shabu, which eventually tested positive for shabu.[10]

Two separate Informations were then filed against Sio for violating Sections 11 and 12 of Republic Act No. 9165, which read:

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2 Id. at 85–96. The November 27, 2015 Decision in CA-G.R. SP No. 135996 was penned by Associate Justice Romeo F. Barza with the concurrence of Associate Justices Andres B. Reyes, Jr. (now a retired Member of this Court) and Agnes Reyes-Carpio of the First Division, Court of Appeals, Manila.

3 Id. at 97–99. The May 18, 2016 Resolution in CA-G.R. SP No. 135996 was penned by Associate Justice Romeo F. Barza with the concurrence of Associate Justices Andres B. Reyes, Jr. (now a retired Member of this Court) and Agnes Reyes-Carpio of the First Division, Court of Appeals, Manila.

4 Id. at 240–248. The May 7, 2013 Order in Crim. Case Nos. 2011-789 and 2011-790 was penned by Presiding Judge Dinah Evangeline Belulia-Bandong of the Regional Trial Court of Lucena City, Branch 59.

5 Id. at 160.

6 Id. at 86.

7 Id. at 173–174.

8 Id.

9 Id. at 86–87.

10 Id. at 87, 193.

Criminal Case No. 2011-789:

> That on or about 24 October 2010, at Ilaya Ibaba, Purok 34 Barangay Dalahican, Lucena City, and within the jurisdiction of this Honorable Court, the above-named accused, not having been lawfully authorized to possess or otherwise use any dangerous drugs, did then and there, willfully, unlawfully and feloniously and knowingly have in his possession, custody and control One Hundred Twelve point Sixty Seven (112.67) grams, One point Zero Two (1.02) grams, One point Twenty Four (1.24) grams, One point Twenty Three (1.23) grams or a total of One Hundred Sixteen point Sixteen (116.16) grams of white crystalline substance, which when examined gave positive results for Methamphetamine Hydrochloride, commonly known as "shabu", a dangerous drug.
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> CONTRARY TO LAW. [11]

Criminal Case No. 2011-790:

> That on or about 24 October 2010, at Ilaya Ibaba, Purok 34 Barangay Dalahican, Lucena City, and within the jurisdiction of this Honorable Court, the above-named accused, not having been lawfully authorized to possess or have under his control instruments, apparatus or other paraphernalia fit or intended for smoking, consuming or introducing any dangerous drug into the body, did then and there, willfully, unlawfully, feloniously and knowingly have in his possession, custody and control the following: one (1) aluminum strip; two (2) unsealed plastic sachets containing white crystalline substance and one (1) improvised tooter which when examined gave positive results for and traces of methamphetamine hydrochloride (shabu), a dangerous drug.
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> CONTRARY TO LAW.[12]

Before the trial court, petitioner filed an Entry of Appearance with Omnibus Motion for Judicial Determination of Probable Cause and to Hold in Abeyance the Issuance of Warrant of Arrest and/or to Recall Warrant of Arrest (Omnibus Motion).[13] In the Omnibus Motion, he pointed to several infirmities in the search warrant application, including the non-existence of the Toyota Camry with plate number ZYR 468 and the registration of the Honda Civic with plate number ZGS 763 to another person.[14]

Further, Sio claimed that the search warrant was implemented in Barangay Purok 3-A, despite the address on the warrant being Ilaya Ibaba, Purok 34, Barangay Dalahican, Lucena City. There were also no Philippine Drug Enforcement Agency operatives during the implementation of the search warrant. Finally, according to Sio, police illegally seized two vehicles which were not subjects of the search warrant and planted the illegal drugs in his

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11 Id. at 205.
12 Id. at 207.
13 Id. at 87, 209–225.
14 Id. at 87–88, 176.

residence.[15]

On May 7, 2013, the Regional Trial Court issued an Order[16] denying the Omnibus Motion and ordering Sio's arrest. In the Order, the trial court found that, after examining the case records, there was probable cause for the issuance of an arrest warrant against Sio.[17]

The dispositive portion of the trial court's Decision reads:

> Wherefore, let a warrant of arrest issue against accused Antonio Sio @ Tony Sio.
>
> **SO ORDERED**.[18] (Emphasis in the original)

His motion for reconsideration was also denied in an April 15, 2014 Order.[19]

Aggrieved, Sio filed with the Court of Appeals a petition for certiorari under Rule 65 of the Rules of Court, arguing that the Regional Trial Court gravely abused its discretion when it denied his Omnibus Motion and issued the arrest warrant.[20]

On November 27, 2015, the Court of Appeals issued a Decision dismissing the petition for certiorari.[21]

The Court of Appeals held that the Regional Trial Court examined, studied, and independently assessed the case records to arrive at its ruling that sufficient ground existed to engender a well-founded belief that a crime was committed and that Sio was probably guilty of committing it. It noted that judges were not obliged to conduct personal examinations of complainants and their witnesses, only that they are exclusively and personally responsible to satisfy themselves on the existence of probable cause.[22] Thus, the Regional Trial Court did not gravely abuse its discretion in denying the omnibus motion.[23]

The dispositive portion of the Court of Appeals' Decision reads:

> Following the above discourse, the Court, therefore, holds that the

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15 Id. at 88.
16 Id. at 240–248.
17 Id. at 247.
18 Id.
19 Id. at 89.
20 Id. at 89–90.
21 Id. at 95.
22 Id. at 93.
23 Id. at 95.

> public respondents did not gravely abuse their discretion in issuing the assailed orders. A special civil action for certiorari could be availed of only if the lower tribunal has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack o[r] excess of jurisdiction. By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Such does not obtain in this case. Where the issue or question involved affects the wisdom or legal soundness of the decision – not the jurisdiction of the court to render said decision – the same is beyond the province of a special civil action for certiorari.
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> **WHEREFORE**, the petition is **DISMISSED**.[24]

Sio moved for reconsideration but the Court of Appeals denied this in a May 18, 2016 Resolution.[25]

On July 1, 2016, Sio filed before this Court a Petition for Review on Certiorari[26] under Rule 45 of the Rules of Court, assailing the Decision and Resolution of the Court of Appeals.

In his Petition, petitioner claims that the search warrant was illegally implemented by the police, pointing to the following infirmities:

> [T]he prosecution's prime witness, PSINP Paulino G. Raguindin (head of the Philippine National Police Anti-Illegal Drugs Special Operations Task Force . . . who illegally implemented the subject search warrant on October 24, 2010. . .) candidly admitted the following undisputed facts:
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> . . . .
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> l. When the subject Search Warrant was implemented on October 24, 2010 at the subject residence of the Petitioner, the members of the PNP-AIDSOTF were neither accompanied by Philippine Drug Enforcement Agency (PDEA) cooperatives nor were authorized and/or consented by the latter in implementing the same[.]
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> m. When the subject Search Warrant was implemented and/or served on October 24, 2010 at the subject residence of the Petitioner, the members of the PNP-AIDSOTF were not accompanied by media person or [b]arangay [o]fficial[.]
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> n. The members of the PNP-AIDSOTF entered the house of the Petitioner around 7:00 o'clock in the morning on October 24, 2010 and that the media people and the barangay officials came in at about 10:00 o'clock in the morning which has an interval period of three (3) hours from the time they entered the subject residence of the Petitioner and the time the media people and the barangay officials came in to Petitioner's residence[.]
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> . . . .

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24 Id.
25 Id. at 97–99.
26 Id. at 12–41.

> p. When the subject search was conducted at the subject residence of Accused Antonio Sio, it was not made in the presence of the lawful occupant of the subject house and/or any member of the family of Petitioner Antonio Sio and/or without the presence of any representative from the barangay[.][27]

Due to these infirmities, petitioner claims that all evidence obtained from the search warrant should have been inadmissible in the criminal cases against him. Thus, there was no probable cause to charge him with violations of Sections 11 and 12 of Republic Act No. 9165.

The Office of the Solicitor General filed its Comment[28] on April 7, 2017. It argues that the Petition for Review should be dismissed outright for raising questions of fact not reviewable in a Rule 45 petition. Further, it claims that the Court of Appeals was correct in finding that the trial court judges did not act with grave abuse of discretion when they found probable cause against petitioner. It points to the independent examination of the case records conducted by the judges:

> Judge Belulia-Bandong stated in her Order dated May 7, 2013 that she made an independent examination of the records of the case, thus:
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> > With the denial of said Motion to Q[ua]sh Search Warrant this Court upon examination/study and independent assessment of the records of this case finds sufficient ground to engender a well-founded belief that a crime has been committed and the accused is probably guilty thereof.[29]

Petitioner filed his Reply[30] on December 17, 2018, in which he argues that his Petition for Review presents an exception to the general rule that only questions of law may be raised in a Rule 45 petition, citing the factual circumstances that would show that there was no probable cause to charge him.

The issues for this Court's resolution are:

First, whether or not the implementation of the search warrant was unreasonable, rendering the evidence seized inadmissible; and

Second, whether or not there was probable cause for the filing of the two Informations for violation of Republic Act No. 9165.

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27 Id. at 25–27.
28 Id. at 607–622.
29 Id. at 617–618.
30 Id. at 638–645.

This Court grants the Petition. The pieces of evidence seized from the unreasonable search and seizure are inadmissible. Without these, there is no probable cause for the filing of the Informations against petitioner Antonio U. Sio.

The issue of whether probable cause exists in the issuance of an arrest warrant is factual, and generally not reviewable in a petition for review on certiorari.[31] However, there are several exceptions to this rule:

> Rule 45 of the Rules of Civil Procedure provides that only questions of law shall be raised in an appeal by *certiorari* before this Court. This rule, however, admits of certain exceptions, namely, (1) when the findings are grounded entirely on speculations, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is a grave abuse of discretion; (4) when the judgment is based on misappreciation of facts; (5) when the findings of fact are conflicting; (6) when in making its findings, the same are contrary to the admissions of both appellant and appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.[32]

Here, the Court of Appeals held that the Regional Trial Court judge did not commit grave abuse of discretion in finding that there was probable cause to arrest the petitioner. Yet, petitioner repeatedly raised in his pleadings in the courts below and before this Court many supposed irregularities during the implementation of the search warrant. These irregularities are central to his argument that the search, and the resulting seizure of the *corpus delicti* of the offenses charged, were illegal and invalid, rendering the evidence against him inadmissible. Therefore, there was no probable cause underpinning the Informations. Yet, neither the Regional Trial Court nor Court of Appeals squarely ruled on his claims.

Further, petitioner points to several pieces of evidence, including the admissions of the police officers before the trial court that should have been addressed by the lower courts: the application for search warrant which indicated a different address than that of petitioner's residence;[33] the certification[34] by the Land Transportation Office that there is no vehicle with plate number ZYR 468; and the admissions[35] of PS/Insp. Raguindin during trial, among others.

PS/Insp. Raguindin admitted some of the circumstances surrounding

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31 *Sarigumba v. Sandiganbayan*, 491 Phil. 704, 720–721 (2005) [Per J. Callejo, Sr., Second Division].
32 *Uy v. Villanueva*, 553 Phil. 69, 79 (2007) [Per J. Nachura, Third Division].
33 *Rollo*, p. 16.
34 Id. at 175.
35 Id. at 21–22.

the search: the Task Force was not accompanied by Philippine Drug Enforcement Agency agents, media personnel or barangay officials when they entered the compound and implemented the search warrant; there was an interval of three hours prior to the arrival of the media and barangay officials, where only the Task Force was the law enforcement present in the compound; and that the search was conducted without the lawful occupant, Sio or members of his family, nor with the presence of any barangay representative.[36]

These circumstances warrant this Court's review of the facts of this case.

Article III, Section 2 of the Constitution states the requirements for issuing a search warrant:

> SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

These requisites are reiterated in Rule 126, Section 4 of the Rules of Court:

> SECTION 4. *Requisites for Issuing Search Warrant.* — A search warrant shall not issue except upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the things to be seized which may be anywhere in the Philippines.

Search warrants must describe particularly the places to be searched and the things to be seized. The purpose of this is to ensure that law enforcement officers have no discretion as to where they search and what they seize.[37] Only those places named in the warrant should be searched, and those things listed should be seized.

Here, the search warrant stated, in part:

> It appears to the satisfaction of the undersigned after examining under oath PSINP PAULINO G. RAGUINDIN and his witness PO3 PEPITO C. SAN PEDRO that there are reasonable grounds to believe that respondent ANTONIO SIO @ "TONY SIO" of Ilaya Ibaba, Purok 34,

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36 Id. at 22.

37 *People v. Simbahon*, 449 Phil. 74, 85–86 (2003) [Per J. Ynares-Santiago, First Division].

> Barangay Dalahican, Lucena City (the sketch of this place hereto attached as Annex "A") has in his possession and control an ***undetermined quantity of shabu/dangerous drugs, methamphetamine hydrochloride (SHABU); assorted drug paraphernalias [sic] used in administering shabu; vehicle being used by the subject in his illegal drug trafficking activities particularly a Toyota Camry with Plate No. ZYR-468 and Honda Civic with Plate No. ZGS-763; and other vital documents to illegal drugs transaction*** which he is keeping and concealing in the premises above described[.][38] (Emphasis in the original)

Yet, as noted by the Court of Appeals and pointed out by petitioner, the search warrant was implemented at Barangay Purok 3A, Barangay Dalahican, Lucena City, not Ilaya Ibaba, Purok 34, Barangay Dalahican, Lucena City. The police officers also seized two vehicles with plate numbers different from those stated in the search warrant. Instead of the declared Toyota Camry with plate number ZYR 468 and Honda Civic with plate number ZGS 763, a CRV Honda with plate number XPX 792 and Toyota Camry with plate number ZRY 758 were seized by the police.[39]

"A search warrant is not a sweeping authority empowering a raiding party to undertake a fishing expedition to seize and confiscate any and all kinds of evidence or articles relating to a crime."[40] Neither the police officers nor the prosecution have been able to explain these inconsistencies, which have enlarged the scope of the search warrant beyond what had been applied for and granted by the judge. Such enlargement of scope leads to an overbroad discretion granted to law enforcement, defeating the purpose of the specificity required of search warrants.[41] In *People v. Court of Appeals*:[42]

> The case at bar, however, does not deal with the correction of an "obvious typographical error" involving ambiguous descriptions of the place to be searched, as in *Burgos*, but the search of a place different from that clearly and without ambiguity identified in the search warrant. In *Burgos*, the inconsistency calling for clarification was immediately perceptible on the face of the warrants in question. In the instant case, there is no ambiguity at all in the warrant. The ambiguity lies outside the instrument, arising from the absence of a meeting of minds as to the place to be searched between the applicants for the warrant and the Judge issuing the same; and what was done was to substitute for the place that the Judge had written down in the warrant, the premises that the executing officers had in their mind. This should not have been done. It is neither fair nor licit to allow police officers to search a place different from that stated in the warrant on the claim that the place actually searched — although not that specified in the warrant — is exactly what they had in view when they applied for the warrant and had demarcated in their supporting evidence. What is material in determining the validity of a search is the place stated in the warrant itself, not what the applicants had in their thoughts, or had

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38 *Rollo*, p. 173.
39 Id. at 86–87.
40 *People v. Francisco*, 436 Phil. 383 (2002) [Per J. Ynares-Santiago, First Division]; *People v. Del Rosario*, 304 Phil. 418, 427 (1994) [Per J. Melo, Third Division].
41 *People v. Go*, 457 Phil. 885 (2003) [Per J. Carpio-Morales, Third Division].
42 353 Phil. 604 (1998) [Per C.J. Narvasa, Third Division].

> represented in the proofs they submitted to the court issuing the warrant. Indeed, following the officers' theory, in the context of the facts of this case, all four (4) apartment units at the rear of Abigail's Variety Store would have been fair game for a search.
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> The place to be searched, as set out in the warrant, cannot be amplified or modified by the officers' own personal knowledge of the premises, or the evidence they adduced in support of their application for the warrant. Such a change is proscribed by the Constitution which requires inter alia the search warrant to particularly describe the place to be searched as well as the persons or things to be seized. It would concede to police officers the power of choosing the place to be searched, even if it not be that delineated in the warrant. It would open wide the door to abuse of the search process, and grant to officers executing a search warrant that discretion which the Constitution has precisely removed from them. The particularization of the description of the place to be searched may properly be done only by the Judge, and only in the warrant itself; it cannot be left to the discretion of the police officers conducting the search.[43]

The irregularities in the implementation of the search warrant, as well as the seizure of property not described in the warrant, demonstrate the unreasonable search and seizure in this case.

Moreover, it is well established that the *corpus delicti* in all prosecutions involving dangerous drugs is the dangerous drug.[44] The identity and integrity of the dangerous drug must be established to sustain a conviction under Republic Act No. 9165.[45] In this regard, Section 21 of Republic Act No. 9165[46] lays down the requirements to establish the chain of custody in criminal cases involving dangerous drugs. These requirements apply not only to warrantless searches and seizures, but also to searches and seizures pursuant to a search warrant. In *Tumabini v. People*:[47]

> Section 21 of R.A. No. 9165 applies whether the drugs were seized either in a buy-bust operation or pursuant to a search warrant. Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to

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43 Id. at 617–618.

44 *People v. Acub*, G.R. No. 220456, June 10, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65228> [Per J. Leonen, Third Division].

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

46 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[.]

47 G.R. No. 224495, February 19, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66221> [Per J. Gesmundo, Third Division].

receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of the seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition. To ensure the establishment of the chain of custody, Sec. 21 (1) of R.A. No. 9165 specifies that:

> (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.

Sec. 21 of R.A. No. 9165 requires the apprehending team, after seizure and confiscation, to immediately conduct a physical inventory and photograph the same in the presence of (1) the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel; (2) a representative from the media and (3) the DOJ; and (4) any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.

A plain reading of the law shows that it applies as long as there has been a seizure and confiscation of drugs. There is nothing in the statutory provision which states that it is only applicable when there is a warrantless seizure in a buy-bust operation. Thus, it should be applied in every situation when an apprehending team seizes and confiscates drugs from an accused, whether through a buy-bust operation or through a search warrant.[48] (Citation omitted)

Notably, Section 21(a) of the Implementing Rules and Regulations of Republic Act No. 9165 states:

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

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48 Id.

> *Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served*; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.] (Emphasis supplied)

To support the claim that the chain of custody over the seized drugs was intact, the prosecution must show that the physical inventory and photographing of the seized drugs were made in the presence of the accused or persons from whom the drugs were seized, a representative from the media and the Department of Justice, and any elected public official. The inventory and photographing must have been conducted at the place where the search warrant was served.

Here, as shown by the records and unrebutted by the prosecution, the implementation of the search warrant was not made in the presence of the witnesses required by Section 21, namely, a member of the media, a Department of Justice representative, and an elected public official. As admitted by PS/Insp. Raguindin, it was only after the entry of police officers into petitioner's residence when the barangay official and media representatives were summoned.[49] It was also not shown if a Department of Justice representative was present at the implementation of the search warrant, despite this representative's presence being among the requirements of Section 21.[50] Moreover, the witnesses arrived at the place to be searched only three hours after the police officers entered petitioner's residence, raising serious questions of whether the drugs discovered at petitioner's residence were switched, planted, or contaminated—precisely the evils that the witnesses' presence are supposed to guard against.[51]

The failure of police officers to comply with the basic requirements of Section 21, when operations conducted by virtue of search warrants require planning and preparation, means that noncompliance with the requirements is unjustifiable. In *Dizon v. People*:[52]

> At the outset, the Court finds it brazen of the police officers to recognize their fatal error in procedure and yet at the same time offer no explanation or justification for doing so, which, as stated above, is required by the law. What further catches the attention of the Court is the fact that Dizon was apprehended pursuant to a search warrant and therefore with

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49 *Rollo*, pp. 26–27.

50 *Cunanan v. People*, G.R. No. 237116, November 12, 2018, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64875> [Per J. Perlas-Bernabe, Second Division].

51 *People v. Luna*, 828 Phil. 671, 689 (2018) [Per J. Caguioa, Second Division].

52 G.R. No. 239399, March 25, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65260> [Per J. Caguioa, Second Division].

more reason, the police officers could have secured the presence of the other witnesses, *i.e.*, the DOJ representative and media representative.

However, despite the advantage of planning the operation ahead, the apprehending team nonetheless inexplicably failed to comply with the basic requirements of Section 21 of R.A No. 9165. The importance of such witnesses was explained by the Court in *People v. Luna*:

> The reason for this is dictated by simple logic: these witnesses are presumed to be disinterested third parties insofar as the buy-bust operation is concerned. Hence, it is at the time of arrest — or at the time of the drugs' "seizure and confiscation" — that the insulating presence of the witnesses is most needed, as it is their presence at the time of seizure and confiscation that would foreclose the pernicious practice of planting of evidence. Without the actual presence of the representative from the media and the DOJ, and any elected public official during the seizure and marking of the confiscated drugs, the evils of switching, planting or contamination of the corpus delicti that had tainted the buy-busts conducted under the regime of RA 6425, otherwise known as the "Dangerous Drugs Act of 1972," could again be resurrected.

Prescinding from the foregoing, considering that no justifiable grounds for the failure to secure the required witnesses were presented by the prosecution, proving that the integrity and evidentiary value of the seized drugs were preserved becomes inconsequential. Stated differently, the saving clause was not triggered because the first prong was not satisfied in the first place.

In this regard, it was serious error for the CA to apply the two requisites alternatively and not sequentially; that unjustified lapses in procedure could be overcome by proof that the integrity and evidentiary value of the seized items remained intact:

> R.A. No. 9165 and its IRR do not require strict compliance or perfect adherence to the procedural aspect of the chain of custody rule. Substantial compliance suffices since what is essential 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.

Such interpretation of the law is simply not discernible from a plain reading thereof. To repeat, the procedural requirements under Section 21 of R.A. No. 9165 are mandatory and may be relaxed only if the following requisites are availing: (1) the departure in procedure is based on "justifiable grounds"[;] and (2) the integrity and the evidentiary value of the seized items are preserved.[53] (Citations omitted)

When the search and seizure are unreasonable and contrary to the requirements of the Constitution and Section 21 of Republic Act No. 9165,

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53 Id.

then the pieces of evidence seized are inadmissible.[54] Without the illegally seized drug and drug paraphernalia, there exists no probable cause to support either the arrest warrant issued against petitioner, or the Informations filed in the trial court.

WHEREFORE, the Petition for Review on Certiorari is **GRANTED**. The November 27, 2015 Decision and May 18, 2016 Resolution of the Court of Appeals, Manila, in CA-G.R. SP No. 135996 are **REVERSED AND SET ASIDE**. The pieces of evidence seized during the implementation of the October 22, 2010 Search Warrant are inadmissible. Consequently, Criminal Case Nos. 2011-789 and 2011-790 before Branch 59 of the Lucena City Regional Trial Court are **DISMISSED**.

All items seized during the search are ordered to be **RETURNED** to petitioner Antonio U. Sio, except for the shabu and drug paraphernalia which are forfeited in favor of the State.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

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54 *Ogayon v. People*, 768 Phil. 272, 291 (2015) [Per J. Brion, Second Division].

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.

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

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.

ALEXANDER G. GESMUNDO
Chief Justice