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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

CICL[1] XXX,[2] CICL YYY,[3] JONATHAN SOLINA *y* SOLINA *alias* "JUN-JUN,"[4] and JED BARBA *y* APOLONIO *alias* "JED,"
Petitioners,

- *versus* -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 230964

Present:

PERLAS-BERNABE, *S.A.J.*,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, *JJ.*

Promulgated:

MAR 02 2022

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DECISION

HERNANDO, *J.*:

This petition for review on *certiorari*[5] assails the December 14, 2016 Decision[6] and April 3, 2017 Resolution[7] of the Court of Appeals (CA) in CA-G.R. CR No. 35674, which affirmed the December 20, 2012 Joint Decision[8] of

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1 Child in Conflict with the Law.
2 Real identity of the Child in Conflict with the Law (CICL) is withheld in accordance with Republic Act No. 9344, or the Juvenile Justice and Welfare Act of 2006, as amended, and A.M. No. 02-1-18-SC, or the Revised Rule on Children in Conflict with the Law.
3 Id.
4 Did not appear for the signing of the verification portion of the instant petition.
5 *Rollo*, pp. 11-30.
6 Id. at 42-57. Penned by Associate Justice Melchor Q.C. Sadang and concurred in by Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier (now a Member of this Court).
7 Id. at 65-66.
8 Id. at 82-93. Penned by Presiding Judge Gloria Butay Aglugub.

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the Regional Trial Court (RTC) of [redacted],[9] Branch 254, in Criminal Case Nos. 06-0260 and 06-0261, finding petitioners and accused Jonathan Solina *y* Solina (Jonathan) guilty beyond reasonable doubt of violating Sections 11 and 12, Article II of Republic Act No. (RA) 9165,[10] or the "Comprehensive Dangerous Drugs Act of 2002."

Version of the Prosecution:

At around 12:30 a.m. on March 8, 2006, Police Officer (PO) 2 Wilson Paule (PO2 Paule), along with Police Superintendent Alberto Romero, Police Inspector (P/Insp.) Marlo Solero, PO2 Rufino Dalagdagan (PO2 Dalagdagan), and P/Insp. Fergen Torred, conducted an anti-criminality operation [redacted], an area notorious for being a hub for rampant sale of drugs. An information that four young individuals were about to have a "pot session" in a place known as "Shabu Hotel" led the law enforcers to the location.

Upon their arrival, the police officers peeked through a slightly opened door. PO2 Paule and PO2 Dalagdagan saw four individuals, later identified as: petitioner CICL XXX (XXX), petitioner CICL YYY (YYY), petitioner Jed A. Barba (Jed), and accused Jonathan, seated on the floor facing each other, with two transparent plastic sachets containing suspected marijuana and an improvised glass tube pipe laid out in front of them. Subsequently, PO2 Paule and PO2 Dalagdagan entered the room and introduced themselves as police officers. PO2 Paule confiscated the two sachets of suspected marijuana and the glass tube pipe. The police officers arrested the suspects, apprised them of their rights, and brought them to the Drugs Enforcement Unit (DEU) of the [redacted] City Police Station.[11]

At the police station, the arresting officers surrendered petitioners and Jonathan to the assigned investigator, PO2 Michael Holanda (PO2 Holanda). PO2 Paule likewise relinquished his possession of the seized items to PO2 Holanda who, in turn, marked the same in front of the petitioners and Jonathan. PO2 Holanda prepared an investigation report[12] for the filing of charges and a request for laboratory examination.[13] At around 2:35 a.m., PO2 Holanda turned over the confiscated items, along with the request for the laboratory

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9 Geographical location is blotted out pursuant to Supreme Court Amended Circular No. 83-2015.

10 Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES." Approved: June 7, 2002.

11 *Rollo*, pp. 43-44.

12 Records, p. 3.

13 Id. at 5; signed by P/Insp. Marlo Solero and P/Supt. Josephus Angan.

examination, to the Philippine National Police crime laboratory of the Southern Police District Office in Makati City.[14] PO2 Paule and PO2 Dalagdagan also executed a joint affidavit of arrest[15] in connection with the case.

The testimonies of PO2 Paule[16] and PO2 Dalagdagan[17] confirmed that PO2 Holanda marked the seized items.[18] Also, the parties stipulated that although PO2 Holanda investigated the case and prepared the investigation report, he had no personal knowledge of the case.[19]

Forensic chemical officer/Police Inspector (PI) Richard Allan Mangalip (PI Mangalip) stated in the Physical Science Report No. D-184-06S[20] that the confiscated items tested positive for marijuana.[21]

Version of the Defense:

Petitioners alleged that around 11:00 p.m. of March 8, 2006, XXX was preparing for bed when YYY arrived. YYY asked XXX to accompany him to Jed's house to borrow a compact disc. Jonathan, whom they met along the way, joined them. When they arrived at Jed's rented room located at the third floor of a certain building, Jed told them to wait by the stairs since his girlfriend was still inside the room. While XXX, YYY, and Jonathan were waiting for Jed, PO2 Paule approached and instructed them to enter Jed's room. PO2 Paule searched the room and the sink, showed them a plastic sachet containing marijuana, and warned them not to escape. Thereafter, PO2 Paule ordered them to go with him to the nearby basketball court since he needed to talk to them.[22]

At the basketball court, petitioners and Jonathan sat with other individuals who were arrested for playing *cara y cruz* (an illegal gambling coin game). While a video recording of them was being taken, they were shown another sachet of marijuana and a glass tube pipe. They were then ordered to board a police patrol car and were transported to the DEU of the [redacted] Police Station. Afterwards, they were escorted to Makati City for a drug test[23] but later brought back to the [redacted] Police Station where they were detained.[24]

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14 *Rollo*, p. 44.
15 Records, p. 4.
16 TSN, June 29, 2006, pp. 5-13.
17 TSN, August 29, 2006, pp. 4-8.
18 TSN, June 29, 2006, p. 12; August 29, 2006, pp. 7-8.
19 Records, p. 386.
20 Id. at 6.
21 TSN, August 20, 2009, p. 11.
22 *Rollo*, p. 15.
23 Records, p. 7.
24 *Rollo*, p. 15; TSN, June 10, 2010, pp. 4-23; February 24, 2011, pp. 5-12; February 23, 2012, pp. 3-8; June 24, 2012, pp. 3-13.

XXX, as well as YYY, insisted that the police did not conduct an inventory and take photos of the supposed seized items.[25]

On March 10, 2006, two separate Informations were filed charging petitioners and Jonathan with violation of Sections 11 and 12, Article II of RA 9165, the accusatory portions of which read:

Criminal Case No. 06-0260 (Illegal Possession of Marijuana):

> That on or about the 8th day of **March, 2006** in the [redacted], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and [all] of them mutually helping and aiding each other, without being authorized by law, did then and there willfully, unlawfully and knowingly have in their possession, custody, and control **0.60 (zero point sixty) gram, 0.30 (zero point thirty) gram** and **1.60 (one point sixty) [gram]** with a total weight of **2.50 (Two point fifty) grams of Marijuana**, a dangerous drug, in violation of the above-cited law.
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> CONTRARY TO LAW.[26]

Criminal Case No. 06-0261 (Illegal Possession of Drug Paraphernalia):

> That on or about the 8th day of **March, 2006** in the [redacted], Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring and confederating together and all of them mutually helping and aiding one another, did then and there willfully, unlawfully and knowingly have in their possession, custody, and control one (1) improvised glass tube pipe, an instrument or paraphernalia fit or intended for using, smoking, consuming, administering or introducing any dangerous drug into the body, in violation of the above-cited law.
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> CONTRARY TO LAW.[27]

During their arraignment, they entered a plea of "not guilty"[28] on both charges.

At the pre-trial, the parties stipulated on the identity of all of the accused, the jurisdiction of the trial court, and the minority of XXX and YYY at the time of the commission of the crimes.[29] Joint trial then ensued.

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25 TSN, October 28, 2010, pp. 13-14, February 24, 2011, p. 13.
26 Records, p. 1.
27 Id. at 22.
28 Id. at 32-39.
29 Id. at 53-55.

Ruling of the Regional Trial Court:

In its December 20, 2012 Joint Decision,[30] the RTC held that the testimonies of PO2 Paule and PO2 Dalagdagan, which were corroborated by the physical science report, were sufficient to prove the crimes charged.[31] The RTC found the defense of the accused as self-serving, and failed to discredit the police officers' testimonies based on improper motive.[32] The RTC further ruled that although no photography or inventory was done, the accused admitted that videos were taken which showed them with the confiscated items when they were in the basketball court. Moreover, the RTC held that YYY is entitled to the privileged mitigating circumstance of minority.[33] The dispositive portion of the RTC's Joint Decision reads:

> **WHEREFORE**, the court hereby renders judgment declaring all the accused ***GUILTY beyond reasonable doubt***, and are sentenced as follows:
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> 1. In Crim. Case No. 06-0260, [XXX], Jonathan Solina and Jed Barba, to suffer ***TWELVE (12) YEARS and ONE (1) DAY,*** as minimum, to ***FOURTEEN (14) YEARS and ONE (1) DAY*** as maximum, and to pay a fine of **₱300,000.00**.
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> **[YYY]**, to suffer ***SIX (6) YEARS and ONE (1) DAY to TWELVE (12) YEARS*** of prision mayor, and to pay a fine of **₱300,000.00**.
>
> 2. In Crim. Case No. 06-0261, [XXX], Jonathan Solina and Jed Barba, to suffer ***SIX (6) MONTHS and ONE (1) DAY***, as minimum, to ***FOUR (4) YEARS***, as maximum, and to pay a fine of **₱100,000.00**.
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> **[YYY]**, to suffer ***SIX (6) MONTHS and ONE (1) DAY to TWO (2) YEARS and FOUR (4) DAYS, as maximum***, and to pay a fine of **₱100,000.00**.
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> The marijuana being a prohibited drug, is hereby confiscated in favor of the Government and to be turned over to the proper authority, for disposition.
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> SO ORDERED.[34]

Aggrieved, the petitioners and Jonathan appealed[35] to the CA.

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30 *Rollo*, pp. 82-93.
31 Id. at 90.
32 Id. at 91.
33 Id. at 92.
34 Id. at 92-93.
35 CA *rollo*, pp. 61-62.

Ruling of the Court of Appeals:

The CA, in its assailed December 14, 2016 Decision,[36] held that the testimonies of the police officers should be accorded credence since they are presumed to have regularly performed their duties. Petitioners and Jonathan were caught *in flagrante delicto*, thus there was *prima facie* evidence that they had the intent to possess the illegal drugs and paraphernalia.[37]

The CA also held that the marking of the seized items may be performed at the police station, and that there is no requirement that the arresting officer should mark the items to the exclusion of the investigating officer.[38] Failure to conduct inventory and take photographs was not fatal to the prosecution's cause as the integrity of the confiscated items was preserved.[39] Hence, the CA held that the chain of custody was not broken.[40] Finally, it affirmed the penalties imposed by the RTC, including the appreciation of the privileged mitigating circumstance of minority in favor of YYY, but reduced the fine to ₱10,000.00 in Criminal Case No. 06-0261.[41] The CA modified the RTC's ruling, as follows:

> **WHEREFORE**, the appeal is **DENIED**. The Joint Decision dated December 20, 2012 of the Regional Trial Court of [redacted], Branch 254, in Criminal Case Nos. 06-0260 and 06-0261, is **AFFIRMED** with the **MODIFICATION** that the fine of ₱100,000.00 imposed on all of the accused-appellants in Criminal Case No. 06-0261 (violation of Sec. 12, Art. II, RA 9165) is reduced to ₱10,000.00.
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> **SO ORDERED.**[42]

The petitioners and Jonathan asked for a reconsideration[43] which the CA denied in a Resolution[44] dated April 3, 2017.

Discontented, the petitioners elevated the case[45] before the Court and presented the following issues:

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> WHETHER THE TRIAL COURT AND THE COURT OF APPEALS GRAVELY ERRED IN FAILING TO CONSIDER THE EXEMPTING CIRCUMSTANCE OF MINORITY IN FAVOR OF PETITIONER [YYY].

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36 *Rollo*, pp. 42-57.
37 Id. at 48-49.
38 Id. at 53-54.
39 Id. at 54.
40 Id. at 54-55.
41 Id. at 55-56.
42 Id. at 56-57.
43 Id. at 58-63.
44 Id. at 65-66.
45 Id. at 11-34.

II
WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE TRIAL COURT'S RELIANCE ON THE INCREDULOUS TESTIMONIES OF THE PROSECUTION WITNESSES.

III
WHETHER THE COURT OF APPEALS GRAVELY ERRED IN NOT RENDERING INADMISSIBLE THE OBJECT EVIDENCE PRESENTED FOR BEING FRUITS OF THE POISONOUS TREE.

IV
WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE PETITIONERS' CONVICTION DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE IDENTITY AND INTEGRITY OF THE *CORPUS DELICTI* OF THE CRIMES CHARGED.[46]

The petitioners argue that YYY (17 years old) and XXX (16 years old) were minors at the time of the alleged commission of the crimes. Thus, they should be exempt from criminal liability as they are minor offenders, especially when the Informations did not specifically allege that they acted with discernment.[47] The prosecution failed to prove that they were apprehended *in flagrante delicto* given that the police officers merely peeped through the partially open door. Thus, any item seized pursuant to such arrest is inadmissible for being a fruit of the poisonous tree. Moreover, even if the petitioners did not contest the legality of their arrest, such would not equate to a waiver of the inadmissibility of evidence seized during the illegal warrantless arrest.[48]

Moreover, the prosecution did not establish the *corpus delicti* of the crimes charged since the chain of custody was broken. Particularly, the prosecution did not identify the person who handled the seized items after these were examined by the forensic chemist and eventually brought to court.[49] The police officers failed to conduct the required inventory despite the clear mandate of Section 21 (a) of the Implementing Rules and Regulations (IRR) of RA 9165, thereby casting serious doubt to the integrity of the *corpus delicti*.[50]

On the other hand, the People, through the Office of the Solicitor General (OSG), maintains that YYY and XXX, although minors at the time of the commission of the crime, acted with discernment, as they were caught in possession of the marijuana sachets and glass pipe.[51] The petitioners' defenses of denial and frame-up crumbled before the testimonies of the police officers

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46 Id. at 18-19.
47 Id. at 19-20.
48 Id. at 21-22.
49 Id. at 23-24.
50 Id. at 25-27.
51 Id. at 139-141.

who stated that the accused were caught in the act.[52] Furthermore, the items were validly confiscated because these fell under the "plain view doctrine," an exception to the exclusion of evidence obtained in a warrantless search incidental to a lawful arrest.[53] Also, the police officers substantially complied with the IRR of RA 9165 and preserved the integrity and evidentiary value of the seized items.[54]

Issue

The core issue is whether or not petitioners are guilty beyond reasonable doubt of the Illegal Possession of Dangerous Drugs and Paraphernalia.

Our Ruling

The petition has merit.

The quantum of proof required in criminal cases, such as offenses penalized by RA 9165, is proof beyond reasonable doubt.[55] A significant departure from this requirement necessitates the acquittal of the petitioners or the accused based on reasonable doubt.

According to Section 11, Article II of RA 9165 for a successful prosecution of Illegal Possession of Dangerous Drugs, the following elements must be present: "(1) the accused was in possession of an item or object identified as a prohibited drug; (2) such possession was not authorized by law; and (3) the accused freely and consciously possessed the said drug, for the illegal possession charge."[56] Meanwhile, the elements required for the prosecution of Illegal Possession of Drug Paraphernalia are: "(a) possession or control by the accused of any equipment, apparatus or other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body; and (b) such possession is not authorized by law."[57] Based on the testimonies of the police officers, petitioners and Jonathan were caught *in flagrante delicto*, without authority by law, consciously possessing the dangerous drugs as they were preparing for a pot session. Likewise, they were spotted with an improvised glass tube pipe which was intended for smoking marijuana, without authority by law.

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52 Id. at 141-142.
53 Id. at 143-144.
54 Id. at 144-147.
55 RULES OF COURT, Rule 133 Section 2.
56 *People v. Sioson*, G.R. No. 242686, July 7, 2020, citing *People v. Baradi*, G.R. No. 238522, October 1, 2018.
57 *People v. Goyena*, G.R. No. 247549, July 15, 2020, citing *People v. Lumaya*, G827 Phil. 473, 484 (2018).

Although there is a presumption that the police officers regularly performed their official duties[58] at the time, their deviation from abiding by the protocol in handling dangerous drugs cases without justifiable cause removes their actions from the purview of such presumption.[59]

In this case, the police officers evidently did not observe the proper procedure and did not present a justifiable cause for their inaction. In effect, they failed to safeguard the process for the seizure and custody of dangerous drugs and paraphernalia (the chain of custody rule), which is found in Section 21 (1), Article II of RA 9165, *viz.*:

> **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 persons 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. (Emphasis supplied)
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> x x x x

Section 21 (a), Article II of the IRR of RA 9165 supplements the aforementioned provision, to wit:

> (a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; *Provided, further*, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items; (Underscoring supplied)

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[58] *People v. Dungo*, G.R. No. 229720, August 19, 2019, citing *People v. De Guzman*, 630 Phil. 637, 655 (2010).

[59] Id.

The Court's pronouncements on the need for the conduct of inventory and photography of the confiscated items are emphasized, as follows:

> In *People v. Lumaya*, it was explained that the obvious purpose of the inventory and photography requirements is to ensure that the identity of the drugs seized from the accused are the drugs for which he would be charged. In the same vein, in *People v. Nepomuceno*, it was declared that the inventory and photographs provide a catalog of the drugs and the related material recovered from the suspect.
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> Additionally, in *People v. Arposeple*, it was underscored that the inventory and photographs serve 'as a safety precaution against potential abuses by law enforcement agents who might fail to appreciate the gravity of the penalties faced by those suspected to be involved in the sale, use or possession of illegal drugs.'[60]

Here, the police officers did not mark, inventory, or photograph the confiscated items immediately after the seizure. Although petitioners admitted that a video recording[61] of them was captured at the basketball court, the prosecution did not present the footage. There is no evidence at all demonstrating that the marking, inventory, or photography were conducted, contrary to the clear mandate of RA 9165. The prosecution did not allege that these processes were performed, even when "a stricter adherence to Section 21 is required where the quantity of illegal drugs seized is miniscule since it is highly susceptible to planting, tampering, or alteration."[62] Unfortunately, the police officers committed lapses early on which caused a huge dent on the prosecution's case.

RA 10640[63] which amended Section 21 of RA 9165 on July 15, 2014,[64] expounded that the photography and inventory of the illicit items should, immediately after seizure, be conducted "in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if *prior* to the amendment of RA 9165 by RA 10640, a representative from the media *AND* the Department of Justice (DOJ), *AND* any elected public official;[65] or (b) if *after* the amendment of RA 9165 by RA 10640[66] an elected public official *AND* a representative of

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60 *People v. Maamor*, G.R. No. 224625, January 12, 2021.

61 TSN, June 10, 2010, p. 20.

62 *People v. Sanico*, G.R. No. 240431, July 7, 2020, citing *People v. Abelarde*, 824 Phil. 122, 123 (2018), other citations omitted.

63 Entitled "AN ACT TO FURTHER 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." Approved: July 15, 2014.

64 Became effective on August 7, 2014; *Sayson v. People*, G.R. No. 249289, September 28, 2020.

65 *Plan, Jr. v. People*, G.R. No. 247589, August 24, 2020, citing Section 21 (1), Article II of RA 9165 and its Implementing Rules and Regulations.

66 Id., citing *People v. Gutierrez*, G.R. No. 236304, November 5, 2018.

the National Prosecution Service[67] *OR* the media."[68] In this case, the directives of RA 9165 prior to its amendment by RA 10640 should apply since the incident transpired on March 8, 2006.

To stress, the presence of the key witnesses is required to ensure the preservation of the *corpus delicti* and remove suspicion of switching, planting, or contamination of evidence.[69] If the presence of the required witnesses could not be obtained, "the prosecution must establish not only the reasons for their absence, but also the fact that serious and sincere efforts were exerted in securing their presence. Failure to disclose the justification for non-compliance with the requirements and the lack of evidence of serious attempts to secure the presence of the necessary witnesses result in a substantial gap in the chain of custody of evidence that shall adversely affect the authenticity of the prohibited substance presented in court."[70] Hence, apart from the finding that no marking, photography, and inventory were performed in this case, no insulating witnesses were likewise present to affirm the proper confiscation and recording of the illegal drugs and paraphernalia.

The prosecution should sufficiently justify its non-compliance with the procedure based on meritorious grounds, provided that the integrity and evidentiary value of the seized items have been properly preserved. "The reason is simple, it is at the time of arrest – or at the time of the drugs' 'seizure and confiscation' – that the presence of the witnesses is most needed, as it is their presence at the time of seizure and confiscation that would insulate against the police practice of planting evidence."[71] The same logic applies to the directives to perform an inventory and photography of the marked or confiscated items. However, the police officers did not bother to explain their failure to follow the protocol, even if such crucial measures were placed to guarantee the preservation of the *corpus delicti*.

Based on the chain of custody rule, the following links should also be established: "*first*, 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*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court."[72]

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67 Id., stating that this office falls under the DOJ based on Presidential Decree No. 1275, Section 1 and RA 10071, Section 3.

68 Id., citing Section 21 (1), Article II of RA 9165, as amended by RA 10640.

69 *People v. Dejos*, G.R. No. 237423, October 12, 2020, citing *People v. De Dios*, G.R. No. 243664, January 22, 2020.

70 *People v. Vistro*, G.R. No. 225744, March 6, 2019.

71 *People v. Parto*, G.R. No. 248809, June 10, 2020, citing *People v. Tomawis*, 830 Phil. 385, 405 (2018).

72 *Panti v. People*, G.R. No. 251332, July 6, 2020, citing *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

Here, the links are riddled with abnormalities, as the apprehending officer (PO2 Paule) did not mark the seized items immediately after seizure at or near the place of arrest. Instead, PO2 Holanda, the investigating officer, was the one who marked the evidence even if he was not present during the actual seizure. In the same way, it is not clear if PO2 Holanda properly turned over the seized items to the crime laboratory. According to the request for laboratory exam, a certain "Relos" (assuming that this was a person's name) received the specimens from PO2 Holanda in the crime laboratory. Yet, "Relos" was not presented as a witness and his or her identity was not ascertained by the prosecution. Additionally, there is doubt if PI Mangalip followed procedure when he surrendered the illicit items for safekeeping until these were presented to the trial court.

Other irregularities tainted the police operation. As previously mentioned, a video was supposedly recorded when all of the accused were rounded up at the basketball court, even when it was not required under RA 9165. However, the footage was not presented in open court or submitted as evidence. Furthermore, PI Mangalip testified[73] that there were three sachets of marijuana, as opposed to the police officers' claim that there were only two. Also, petitioners and Jonathan were not informed of the results of their drug tests.[74]

Hence, as to the charge of Illegal Possession of Dangerous Drugs, the prosecution miserably failed to prove the integrity and evidentiary value of the *corpus delicti* due to the broken chain of custody.[75] The police officers' errors even supported the defense's theory that the seized items might have been compromised while under police custody. Based on reasonable doubt, the accused must be acquitted from the charge of violating Section 11, Article II of RA 9165.

As aptly pointed out by Senior Associate Justice Perlas-Bernabe during the deliberations, the accused should be acquitted from the charge of Illegal Possession of Drug Paraphernalia under Section 12, Article II of RA 9165. To explain this better, We opted to highlight the similarities in Section 21 (1) of RA 9165 as well as Section 21 (a) of the IRR of RA 9165, as follows:

Section 21 (1) of RA 9165	**Section 21 (a) of the IRR of RA 9165**
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	**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***

73 TSN, August 20, 2009, p. 12.
74 TSN, June 10, 2010, p. 23; February 23, 2012, p. 8.
75 *People v. Romano*, G.R. No. 224892, June 15, 2020, citing *People v. Morales*, 630 Phil. 215, 229 (2010).

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;	***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; *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;

Based on the quoted provisions, it is expressly stated that the drugs shall be subjected to marking, inventory, and photography by the apprehending officer/team. Yet, this should not be strictly interpreted to mean that **only** the seized illegal drugs should undergo the said procedure, to the exclusion of the other items in the list, specifically "plant sources of dangerous drugs, controlled precursors and essential chemicals, **instruments/paraphernalia** and/or laboratory equipment." We have to consider that:

> It is a basic rule in statutory construction that every part of the statute must be interpreted with reference to the context, *i.e.*, that every part of the statute must be interpreted together with the other parts, and kept subservient to the general intent of the whole enactment. The law must not be read in truncated parts; its provisions must be read in relation to the whole law. The particular words, clauses and phrases should not be studied as detached and isolated expression, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. Consistent with the fundamentals of statutory construction, all the words in the statute must be taken into consideration in order to ascertain its meaning. We have to take the thought conveyed by the statute as a whole; construe the constituent parts together; ascertain the legislative intent from the whole act; consider each and every provision thereof in the light of the general purpose of the statute; and endeavor to make every part effective, harmonious, sensible.[76]

Except for Section 21 (1) of RA 9165 and Section 21 (a) of the IRR, the other paragraphs concerning this provision discuss the proper procedure in handling all of the items listed, and not just the drugs confiscated. This lapse might have been an oversight on the part of the framers of RA 9165 and its IRR, which was eventually rectified when RA 10640 was enacted. Besides, it would be irrational to not include the whole list of items from the conduct of marking, inventory, and photography, as anything seized from the accused should undergo the procedure for documentation purposes and more importantly, to ensure that the confiscated items would not be tampered or contaminated.[77]

Indeed, "'Section 21 spells out matters that are imperative.' Strict conformity with it is warranted considering 'that penal laws shall be construed strictly against the government, and liberally in favor of the accused.' Accordingly, '[c]ompliance cannot give way to a facsimile; otherwise, the purpose of guarding against tampering, substitution, and planting of evidence is defeated.'"[78] Simply put, where there is doubt, the provisions of the applicable penal law should be construed in favor of the accused, in order to safeguard his or her legal rights.

Still, the Court notes that Jonathan did not sign the verification portion of the instant petition. Regardless, Section 11 (a), Rule 122 of the Rules of Court states:

> Section 11. *Effect of appeal by any of several accused.* –
>
> (a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.[79]

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76 *Figueroa v. Commission on Audit*, G.R. Nos. 213212, 213497 & 213655, April 27, 2021.
77 As expressed in the Letter of Senior Associate Justice Estela Perlas-Bernabe dated February 26, 2022.
78 *People v. Valera*, G.R. No. 233552, July 15, 2020.
79 RULES OF COURT, Rule 122, § 11 (a).

> (a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.[79]
>
> x x x x

To clarify, "[i]t is a well-established rule than an appeal in a criminal proceeding throws the whole case open for review of all its aspects, including those not raised by the parties. By operation of [Section] 11 (a) of Rule 122, a favorable judgment – such as the acquittal in this case – may benefit a co-accused who did not appeal, even if the conviction of the latter had already become final and executory."[80] Thus, Jonathan should benefit from the favorable outcome of the instant petition even if he did not sign its verification portion. Otherwise stated, Jonathan should also be acquitted for the illegal possession charges under Sections 11 and 12, Article II of RA 9165.

To summarize, although the elements of Illegal Possession of Dangerous Drugs and Drug Paraphernalia were present, the integrity and evidentiary value of the confiscated items were compromised because the police officers did not follow the stringent requirements of Section 21 (1), Article II of RA 9165 as well as its IRR. Since proof beyond reasonable doubt[81] is required to secure a conviction in criminal cases, all of the accused should be acquitted, as the chain of custody was broken. In other words, the conviction of the petitioners and Jonathan in Criminal Case Nos. 06-0260 and 06-0261 for violating Sections 11 and 12, Article II of RA 9165 should be reversed based on reasonable doubt.

WHEREFORE, the petition is **GRANTED**. The assailed December 14, 2016 Decision and April 3, 2017 Resolution rendered by the Court of Appeals in CA-G.R. CR No. 35674 are **REVERSED and SET ASIDE**.

In Criminal Case Nos. 06-0260 and 06-0261, for violations of Sections 11 and 12, Article II of Republic Act No. 9165, petitioners CICL XXX, CICL YYY, and Jed Barba *y* Apolonio, as well as accused Jonathan Solina *y* Solina, are **ACQUITTED** due to the prosecution's failure to prove their guilt beyond reasonable doubt.

Petitioners, CICL XXX, CICL YYY, and Jed Barba *y* Apolonio, as well as accused Jonathan Solina *y* Solina, are ordered immediately **RELEASED** from detention, unless they are confined for any other lawful cause.

Let a copy of this Decision be furnished to the Director General, Bureau of Corrections, Muntinlupa City, for immediate implementation. Furthermore, the Director General of the Bureau of Corrections is **DIRECTED** to report to this Court the action he has taken within five days from receipt of this Decision.

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79 RULES OF COURT, Rule 122, § 11 (a).
80 *People v. Diaz*, G.R. No. 219174, November 11, 2020.
81 RULES OF COURT, Rule 133, Section 2.

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

RODIL V. ZALAMEDA
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JOSE MIDAS P. MARQUEZ
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.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I hereby 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