



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 189277

Present:

- versus -

CARPIO, *Acting C.J.*,*
Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

RICARDO REMIGIO y ZAPANTA,
Accused-Appellant.

Promulgated:
DEC 05 2012

X ----- X

DECISION

PEREZ, J.:

For review through this appeal¹ is the Decision² dated 29 May 2009 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03169 which affirmed the conviction of herein accused-appellant RICARDO REMIGIO y ZAPANTA for illegal sale of dangerous drugs in violation of Section 5, Article II³ and illegal possession of dangerous drugs in violation of Section

* Per Special Order No. 1384 dated 4 December 2012.

¹ Rollo, p. 10. Via a notice of appeal, pursuant to Section 2 (c) of Rule 122 of the Rules of Court.

² Id. at 2-9.

³ **Section 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

11, Article II⁴ of Republic Act (RA) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The factual rendition of the prosecution as presented by its only witness PO2 Romelito Ramos (PO2 Ramos), a member of the Cainta Police Station, follows:

PO2 Ramos testified that on 17 April 2003 at about six o'clock in the evening, while giving assistance to the devotees going to Antipolo City in the corner of General Ricarte Street and Ortigas Avenue, Cainta, Rizal, one of the police informants named Angel approached and told him that an Alias Footer was somewhere in the store near General Ricarte Street.⁵ Immediately, PO2 Ramos informed his Deputy Chief of Police, Colonel Bagtas (Col. Bagtas) for the conduct of a buy-bust operation. At that time, there were about seven to eight police officers in the area also giving assistance to the devotees.⁶ Col. Bagtas so ordered that such operation be done with PO2 Ramos as the poseur-buyer.⁷ PO2 Ramos prepared the One

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.

xxxx

⁴ **Section 11. Possession of Dangerous Drugs.** - 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

xxxx

⁵ TSN, 9 July 2003, pp. 5-6.

⁶ Id. at 6-7.

⁷ Id. at 7-8.

Hundred Peso bill (₱100.00) to be used as marked money in the operation. He put his initials, RDR, on the face of the bill.⁸

Having told the informant Angel that they will conduct a buy-bust operation, the policeman and Angel proceeded to the store in General Ricarte Street where Alyas Footer was.⁹ Angel approached Alyas Footer first and PO2 Ramos waited for his signal from a distance of more or less ten arms length.¹⁰ After Angel and Alyas Footer talked for a while, Angel called PO2 Ramos to come forward. Upon approaching, PO2 Ramos immediately told Alyas Footer, “[p]are paiskor ng piso.”¹¹ This meant One Hundred Pesos worth of illegal drugs.¹² Alyas Footer, prompted by the question, took a sachet of *shabu* from his pocket and handed it over to PO2 Ramos. PO2 Ramos then handed the marked money to Alyas Footer as payment.¹³

After the transaction, PO2 Ramos introduced himself as a policeman and asked Alyas Footer to take out all the contents of his pocket. Alyas Footer complied and brought out the One Hundred Peso bill marked money and another plastic sachet of illegal drug.¹⁴ Three more sachets of illegal drugs were found in the compartment of the motorcycle of the accused. He also turned over his student driver’s license to PO2 Ramos which indicated his name as Remigio Zapanta.¹⁵ The name of the accused would later be clarified by the prosecution through PO2 Ramos as referring to the same person as the accused Ricardo Zapanta Remigio (Remigio).

⁸ Id. at 7-9.

⁹ Id. at 8-9.

¹⁰ Id. at 9-10.

¹¹ Id. at 10.

¹² Id. at 11.

¹³ Id.

¹⁴ Id. at 12.

¹⁵ Id. at 14.

The plastic sachets taken from Remigio were brought by PO2 Ramos to Camp Crame for laboratory examination. He testified that he personally transmitted the request for actual testing of the contents of the sachets to the chemist.¹⁶

Towards the end of his direct examination, he identified the marked money as the one used in the transaction and the picture of the motorcycle marked as Exhibit “C” as the one possessed by Remigio when the buy-bust operation was conducted.¹⁷

During his cross examination,¹⁸ PO2 Ramos admitted that the buy-bust operation was recorded only after the arrest.¹⁹ He also revealed that he already knew that there was a standing alias warrant against Remigio and that they have been conducting surveillance against Remigio for some time prior to the buy-bust operation.²⁰ He also added that he was then wearing civilian clothes unlike the other police officers visible in the area.²¹

On the other hand, the factual version of the defense as presented by accused Remigio is as follows:

He testified that at about seven o’clock in the evening of 17 April 2003, he was at Helen’s Best store in Ortigas Extension, Cainta, Rizal.²² He said that he rode his motorcycle going there and parked it in front of the store before buying food.²³ There were about six policemen in the area while he was in front of the store.²⁴

¹⁶ Id. at 14-15.

¹⁷ Id. at 19.

¹⁸ TSN, 16 July 2003, pp. 1-11.

¹⁹ Id. at 8-9.

²⁰ Id. at 10-11.

²¹ Id. at 7.

²² TSN, 3 March 2004, pp. 4-5.

²³ Id. at 6.

²⁴ Id. at 6-7.

He thereafter described the conduct of his arrest.

PO2 Ramos, wearing his official uniform, together with an asset he knew by the name of Angel, approached and told him to take the things out of his pocket.²⁵ PO2 Ramos then asked for his name in this manner, “[i]kaw ba si Futter?”²⁶ He replied that he is not the person. Just the same, he complied and took out his keys and wallet from his pocket and gave them to PO2 Ramos.²⁷ PO2 Ramos opened his wallet and was thereafter shown one (1) plastic sachet of illegal drug which was allegedly taken from his wallet.²⁸ He told them that the sachet did not belong to him but still was handcuffed.²⁹ PO2 Ramos then brought him together with Angel to the police station at Karangalan Village on board a taxi.³⁰ His motorcycle was left in front of the store after his arrest.³¹

Upon reaching the police station, one of the police officers there named Oscar Soliven told him that for ₱20,000.00 the police would not file the case for violation of Section 5 or illegal sale of dangerous drugs under R.A. No. 9165. He did not agree to the proposal and was detained at the station until his inquest on 21 April 2003.³²

Subjected to cross-examination, Remigio was questioned by the prosecution regarding a previous arrest relative to dangerous drugs. He said that he was just a suspect in that case and that he had filed a complaint against the person who arrested him.³³

²⁵ Id. at 7-9.

²⁶ Id. at 9.

²⁷ Id. at 10-11.

²⁸ Id. at 11-12.

²⁹ Id. at 12.

³⁰ Id. at 13-14.

³¹ Id. at 14.

³² Id. at 14-15.

³³ TSN, 7 April 2005, pp. 3-4.

A witness who was presented to corroborate the version of Remigio was Nelia Diolata, his elementary school classmate. She testified that she went to Helen's Best store in General Ricarte St. and Ortigas Avenue to buy food.³⁴ There, she saw Remigio already waiting for the food he bought.³⁵ While leaving the store after she got her food, she heard someone being asked if his name was Footer.³⁶ She saw a uniformed police officer asking the question. She was able to identify the policeman as "Ramos" through his nameplate,³⁷ as she was only two meters away from them.³⁸ She then heard Remigio answer composedly.³⁹ She saw Remigio pull out his wallet and a piece of paper which she recognized as registration paper of a motor vehicle. Two more persons in civilian clothes approached PO2 Ramos and Remigio. She thereafter turned her back and proceeded home.⁴⁰ Two years after the arrest, she learned from Remigio's mother that he was arrested so she voluntarily offered to testify.⁴¹

Eventually, two sets of Information were filed as follows:

For Criminal Case No. 03-25497 for illegal sale of dangerous drugs:

That on or about the 17th day of April 2003 in the Municipality of Cainta, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused without being authorized by law, did, then and there willfully, unlawfully and knowingly sell, deliver and give away to another 0.03 gram of white crystalline substance contained in one (1) heat-sealed transparent plastic sachet which was found positive to the test for Methamphetamine Hydrochloride, commonly known as "Shabu[,] a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁴²

³⁴ TSN, 20 April 2006, pp. 4-5.

³⁵ Id. at 5.

³⁶ Id. at 6.

³⁷ Id. at 6-7.

³⁸ Id. at 8.

³⁹ Id. at 7.

⁴⁰ Id. at 8-9.

⁴¹ Id. at 4 and 10.

⁴² Records, p. 1.

For Criminal Case No. 03-25498 for possession of dangerous drugs:

That on or about the 17th day of April 2003 in the Municipality of Cainta, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did, then and there willfully, unlawfully and knowingly have in his possession, direct custody and control 0.03 gram, 0.03 gram, 0.03 gram and 0.03 gram with a total weight of 0.12 gram of white crystalline substance contained in four (4) heat-sealed transparent plastic sachets which were found positive to the test for Methamphetamine Hydrochloride, also known as “Shabu[,]” a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁴³

Upon arraignment on 29 May 2003, accused Remigio with the assistance of his counsel, pleaded NOT GUILTY to the offenses charged against him.⁴⁴

Trial ensued and on 12 October 2007, the trial court⁴⁵ found the accused guilty of the offenses charged against him. The disposition reads:

WHEREFORE, premises considered, accused Ricardo Remigio is found guilty of the offense charged in the Informations and is sentenced to Reclusion Perpetua in Criminal Case No. 03-25497. In Criminal case No. 03-25498, accused Ricardo Remigio is sentenced to suffer an Imprisonment of Twelve (12) years and one (1) day to twenty (20) years and a fine of P300,000.00 as provided for under Section 11, Par. (3) [o]f RA 9165. As amended.⁴⁶

Upon appeal, the accused-appellant argued that the trial court erred in finding that the prosecution was able to prove the requisites of a buy-bust operation.⁴⁷ He doubted the entrapment operation as there was already an existing warrant of arrest against him.⁴⁸ Further, he emphasized the failure of the prosecution to establish the *corpus delicti* of the case as the five

⁴³ Id. at 10.

⁴⁴ Certificate of Arraignment. Id. at 27.

⁴⁵ Regional Trial Court, Branch 73, Antipolo City.

⁴⁶ RTC Decision; records, p. 121.

⁴⁷ Accused-Appellant’s Brief; CA *rollo*, p. 30.

⁴⁸ Id. at 31.

plastic sachets allegedly containing dangerous drug were not presented in court. What were presented were only pictures which do not prove that those in the pictures were the same ones tested at the forensic laboratory.⁴⁹ Finally, he questioned the non-adherence to the procedures to establish the chain of custody of evidence such as the marking of the five sachets of confiscated drugs at the time and in the place where the accused was arrested.⁵⁰

The People, through the Office of the Solicitor General, stressed the legality of a buy-bust operation.⁵¹ It relied on the presumption of regularity of performance of police officers in fulfilling their duties,⁵² and on the prosecution's proof of all the elements of illegal sale of *shabu*.⁵³

After review, the CA affirmed the ruling of the trial court with modification on the penalty imposed. The dispositive portion reads:

WHEREFORE, in light of the foregoing, the decision subject of the present appeal is hereby **AFFIRMED** save for a modification in the penalty imposed by the trial court. Accordingly, the accused-appellant is sentenced to suffer life imprisonment and a fine of five hundred thousand pesos (P500,000.00).⁵⁴

The appellate court gave great weight on the findings of facts of the trial court and full credit to the presumption of regularity of performance of the arresting officer Ramos. It discredited the argument of the defense of frame-up and upheld the presence of the requisites to prove illegal sale of dangerous drugs.⁵⁵ No weight was given by the CA to the argument about non-compliance with the procedures laid down in Section 21 of R.A. No.

⁴⁹ Id. at 33-34.

⁵⁰ Id.

⁵¹ Appellee's Brief; id. at 53.

⁵² Id. at 54.

⁵³ Id. at 56.

⁵⁴ *Rollo*, p. 9.

⁵⁵ Id. at 6-7.

9165 to establish the chain of custody of evidence ruling that there was no taint in the integrity of the evidentiary value of the seized items.⁵⁶

This appeal is moored on the contention about the break in the chain of custody and the absence of identification of illegal drugs.⁵⁷ Appellant capitalizes on the non-marking of the sachets allegedly recovered from his wallet and compartment of his motorcycle, the non-preparation of an inventory report, the absence of photographs of the arrest, and non-presentation of the actual dangerous drugs before the court. The argument is that without the requisite proof, there is insurmountable doubt whether the sachets allegedly confiscated from him were the same ones delivered to the forensic laboratory for examination,⁵⁸ and then presented during the trial.

We agree fully with the accused-appellant.

In order to successfully prosecute an offense of illegal sale of dangerous drugs, like *shabu*, the following elements must first be established: (1) the identity of the buyer and the seller, the object and consideration of the sale; and (2) the delivery of the thing sold and the payment therefor.⁵⁹

On the other hand, a case of illegal possession of dangerous drugs will prosper if the following elements are present: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.⁶⁰

⁵⁶ Id. at 7.

⁵⁷ Supplemental Brief of the Accused-Appellant; id. at 27.

⁵⁸ Id. at 28.

⁵⁹ *People v. Unisa*, G.R. No. 185721, 28 September 2011, 658 SCRA 305, 324; *People v. Manlangit*, G.R. No. 189806, 12 January 2011, 639 SCRA 455, 463.

⁶⁰ *People v. Alcuizar*, G.R. No. 189980, 6 April 2011, 647 SCRA 431, 445.

In both cases of illegal sale and illegal possession of dangerous drugs, it is important for the prosecution to show the chain of custody over the dangerous drug in order to establish the *corpus delicti*.⁶¹

Jurisprudence consistently pronounces that the dangerous drug itself constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to a judgment of conviction.⁶² As such, the presentation in court of the *corpus delicti* – the body or substance of the crime – establishes the fact that a crime has actually been committed.⁶³

In this case, no illegal drug was presented as evidence before the trial court. As pointed out by appellant, what were presented were pictures of the supposedly confiscated items. But, in the current course of drugs case decisions, a picture is not worth a thousand words.⁶⁴ The image without the thing even prevents the telling of a story. It is indispensable for the prosecution to present the drug itself in court.

We have decided that in prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and its existence is vital to sustain a judgment of conviction beyond reasonable doubt. To emphasize the importance of the *corpus delicti* in drug charges, we have held that it is essential that the prohibited drug confiscated or recovered from the suspect is **the very same substance** offered in court as exhibit; and that **the identity of said drug be established with the same unwavering exactitude as that requisite to make a finding of guilt.**⁶⁵

⁶¹ *People v. Climaco*, G.R. No. 199403, 13 June 2012.

⁶² *Zafra and Marcelino v. People*, G.R. No. 190749, 25 April 2012.

⁶³ *People v. Fermin*, G.R. No. 179344, 3 August 2011, 655 SCRA 92, 100; *People v. Gutierrez*, G.R. No. 179213, 3 September 2009, 598 SCRA 92, 101.

⁶⁴ A-picture-is-worth-a-thousand-words. <http://www.phrases.org.uk/meanings>. 19 November 2012.

⁶⁵ *People v. Salonga*, G.R. No. 186390, 2 October 2009, 602 SCRA 783, 795.

Thus, there are two indispensables. The illegal drug must be offered before the court as exhibit and that which is exhibited must be the very same substance recovered from the suspect. The needfulness of both was stressed in *People v. Lorena*,⁶⁶ where We, after reiterating the elements of the crime of sale of illegal drug, proceeded to state that all these require evidence that the sale transaction transpired coupled with the presentation in court of the *corpus delicti*, i.e. the body or substance of the crime, which in *People v. Martinez*,⁶⁷ equates as simply in *People v. Gutierrez*,⁶⁸ was referred to as “the drug itself.”

In this case, there is no *corpus delicti*.

The prosecution failed to present the drug itself in court; it relied only on the pictures of the alleged drugs. Nowhere in the records is it shown that the prosecution made any effort to present the very *corpus delicti* of the two drug offenses. This is evident in the pertinent portions of the direct testimony of PO2 Ramos:

PUBLIC PROSECUTOR: May we request Your Honor that this picture be marked as Exhibit “C” and another picture showing the whole body of motorcycle be marked as Exhibit “C-1[.]”

COURT: Mark them.

PUBLIC PROSECUTOR:

Q: Where is the coin purse here, Mister witness?

A: Witness pointing to white object.

Q: Where is the plastic sachet?

A: Witness pointing to other 3 white objects depicting (sic) in the picture.

⁶⁶ G.R. No. 184954, 10 January 2011, 639 SCRA 139, 155.

⁶⁷ G.R. No. 191366, 13 December 2010, 637 SCRA 791.

⁶⁸ G.R. No. 179213, 3 September 2009, 598 SCRA 92.

PUBLIC PROSECUTOR: May we request Your Honor that this picture be marked as Exhibit "C-2[.]"⁶⁹

As already above indicated, the vitalness in court of both the recovered substance and the certainty that what was recovered from the accused is that which is presented in evidence are underscored by the rule on the chain of custody of evidence. Compliance with the chain of custody of evidence is provided for in Section 21, Article II of R.A. No. 9165. We quote:

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;

X X X X

(8) Transitory Provision: a) Within twenty-four (24) hours from the effectivity of this Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies shall, with leave of court, be burned or destroyed, in the presence of representatives of the Court, DOJ, Department of Health (DOH) and the accused/and or his/her counsel, and, b) Pending the organization of the PDEA, the custody, disposition, and burning or destruction of seized/surrendered dangerous drugs provided under this Section shall be implemented by the DOH.

⁶⁹ TSN, 9 July 2003, pp. 19-20.

These requirements are substantially complied with through the proviso in Section 21(a) of the Implementing Rules and Regulations of R.A. No. 9165:

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 so confiscated, seized and/or surrendered, for 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 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 copy thereof. Provided, that the physical inventory and the photograph shall be conducted at the place where the search warrant is served; or at least 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 evidentiary value of the seized items are properly preserved by the apprehending team/officer, shall not render void and invalid such seizures of and custody over said items.** (Emphasis supplied)

By definition,⁷⁰ "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 receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the

⁷⁰

Dangerous Drugs Board Regulation No. 1, Series of 2002, Sec. 1 (b).

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.

The case of *People v. Kamad*⁷¹ enumerates the different links that the prosecution must prove in order to establish the chain of custody in a buy-bust operation, namely:

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 by the forensic chemist to the court.⁷²

We could have stopped at the point where the prosecution failed to present the substance allegedly recovered from the appellant. The failure already renders fatally flawed the decision of conviction. Indeed, an examination of the chain of custody of the substance, without the substance itself, is nonsensical. We, however, see more than an academic need for a discussion of the concept of chain of custody. We want to depict the carelessness, if not the brazen unlawfulness, of the law enforcers in the implementation of the Comprehensive Dangerous Drugs Act of 2002. What happened in this case is a one-man operation, seemingly towards the

⁷¹ G.R. No. 174198, 19 January 2010, 610 SCRA 295, 307-308.

⁷² Id. at 307-308. See also *People v. Arriola*, G.R. No. 187736, 8 February 2012, 665 SCRA 581, 598.

objective of the law, but by means of outlawing those specifically outlined in the statute, in the rules implementing the statute and in our decisions interpreting law and rule. As testified to by the prosecution's sole witness, PO2 Ramos, he was the one who conceived the operation; who, although with his informant as the lone actor, conducted the operation by himself being the poseur-buyer with a one hundred peso bill he himself pre-marked and recorded in the police blotter only after the arrest. PO2 Ramos was himself the apprehending officer who confiscated the sachets of illegal drugs together with the wallet of the accused.

There was no showing when, where and how the seized plastic sachets were marked. It was not shown that there was a marking of evidence at the place of arrest or at the police station. It was unexplained why the five plastic sachets containing white crystalline substance were already marked as "RZR-1," "RZR-2," "RZR-3," "RZR-4" and "RZR-5" when transmitted to the forensic chemist.

Already, the omission of the first link in the chain tainted the identification of the drugs that was allegedly seized from the accused. What followed was no less a series of violations of the procedure in the conduct of buy-bust operations.

As testified by PO2 Ramos, he did not transfer the seized items to the investigating officer. And nothing in the records reveals that there was such a transfer. From his statements, he kept the alleged *shabu* from the time of confiscation until the time he transferred them to the forensic chemist. We quote:

PUBLIC PROSECUTOR: Now, what happened to the plastic sachets of alleged shabu which were taken from Alyas Footer?

A: It was brought to the Camp Crame laboratory for examination, Sir.

Q: If you know, Mister witness, who personally transmitted the request for chemist and actual testing of said sachet of shabu.

A: Me, Sir.⁷³

PO2 Ramos testified that he personally brought the seized items to the forensic chemist. In further muddlement of the prosecution's evidence, in the records of the Request for Laboratory Examination, a different person named as PO2 Halim was indicated as having delivered the five pieces of heat-sealed plastic sachets to the laboratory for examination.⁷⁴ No document or testimony was offered to clarify who PO2 Halim is and what his participation was in the chain of custody of the alleged illegal drug.

The failure to produce the *corpus delicti* in court cannot be remedied by the stipulation regarding the forensic chemist.

Forensic Chemist Annalee Forro failed to testify in court regarding the result of the qualitative examination of the substance in the sachets. The prosecution proposed a stipulation about her findings. This was admitted by the defense but with qualification. We quote the pertinent portions:

PUBLIC PROSECUTOR: I am offering the following for stipulations: that Annalee Forro is a forensic chemist officer connected with the PNP Crime Laboratory Service and that on April 18, 2003, she conducted the chemical examination on the contents of the five plastic sachets with markings RZR-1 to RZR-5 and found the same to be positive for methamphetamine hydrochloride, a dangerous drug and the name of the suspect as mentioned in the information is Ricardo Remigio.

DEFENSE COUNSEL: Admitted with qualification that she merely copied the name of the suspect on the request for laboratory examination delivered by member of the Cainta Police Station.⁷⁵

⁷³ TSN, 9 July 2003, pp. 14-15.


⁷⁴ Records, p. 13.

⁷⁵ TSN, 6 November 2003, pp. 2-3.

Proceeding from the vacuity of proof of identification of the supposedly seized item and of the transfer of its custody, from the arresting officer to the forensic chemist, no value can be given to the document that merely states that the sachets presented to the forensic chemist contained prohibited drugs.


WHEREFORE, the appeal is **GRANTED**. The 29 May 2009 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03169 affirming the judgment of conviction dated 12 October 2007 of the Regional Trial Court, Branch 73 of Antipolo City in Criminal Case Nos. 03-25497 and 03-25498 is hereby **REVERSED** and **SET ASIDE**. Accused-appellant Ricardo Remigio y Zapanta is hereby **ACQUITTED** and ordered immediately released from detention unless his continued confinement is warranted for some other cause or ground.

SO ORDERED.

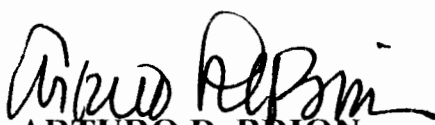


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Acting Chief Justice
Chairperson



ARTURO D. BRION
Associate Justice




MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PÉRLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Acting Chief Justice