



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 200165

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

- versus -

REYNALDO NACUA,
Accused-Appellant.

Promulgated:

JAN 30 2013

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DECISION

LEONARDO-DE CASTRO, J.:

Before Us for review is the Decision¹ dated July 28, 2011 of the Court of Appeals in CA-G.R. CEB-CR-H.C. No. 00896, which affirmed with modification the Decision² dated March 17, 2008 of the Regional Trial Court (RTC), Branch 58 of Cebu City in Criminal Case No. CBU-77272, finding accused-appellant Reynaldo Nacua guilty beyond reasonable doubt of violating Article 2, Section 5 of Republic Act No. 9165, otherwise known as the Dangerous Drugs Act of 2002.

The antecedent facts, as culled from the records, are as follows:

On September 16, 2005, Police Officer (PO) 3 Cirilo R. Luague (Luague) and PO1 Julius B. Aniñon (Aniñon) of the Philippine National Police (PNP) in Cebu City executed and filed before the Office of the City Prosecutor of Cebu a Joint Affidavit³ charging accused-appellant and his common-law wife, Teresita Villanueva-Nacua (Teresita), of selling and delivering methamphetamine hydrochloride, also known as *shabu*, at their

¹ *Rollo*, pp. 3-17; penned by Associate Justice Nina G. Antonio-Valenzuela with Associate Justices Pampio A. Abarintos and Myra V. Garcia-Fernandez, concurring.

² Records, pp. 128-135; penned by Presiding Judge Gabriel T. Ingles.

³ Id. at 7-8.

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residence at 0475 Dela Rama Compound, D. Jakosalem Street, Sitio Taup, Barangay Cogon Ramos, Cebu City.

According to their Joint Affidavit, PO3 Luague and PO1 Aniñon were instructed to conduct a surveillance of the house of accused-appellant and Teresita (Nacua couple) based on information from a “police asset” that the said couple was illegally trading *shabu*. The surveillance commenced on August 26, 2005. PO3 Luague and PO1 Aniñon, with the help of their informant, executed a “test-buy” operation on September 2, 2005, during which, PO3 Luague and PO1 Aniñon bought and received from the Nacua couple a sachet of suspected *shabu*. The police officers immediately submitted the sachet and its contents for forensic examination at the PNP Regional Crime Laboratory Office (RCLO), Camp Sotero Cabahug, Gorordo Avenue, Cebu City.⁴ Per the PNP-RCLO Chemistry Report No. D-1306-2005⁵ dated September 2, 2005, the specimen submitted by PO3 Luague and PO1 Aniñon, weighing 0.02 grams, tested positive for methamphetamine hydrochloride.

On the strength of the Joint-Affidavit of PO3 Luague and PO1 Aniñon and PNP-RCLO Chemistry Report No. D-1306-2005 dated September 2, 2005, Police Inspector (P/Insp.) Renero L. Agustin, Sr. (Agustin) applied for a court warrant to search the residence of the Nacua couple for more evidence. RTC-Branch 7 of Cebu City granted P/Insp. Agustin’s application and issued Search Warrant No. 1535-09-1605-7 on September 16, 2005, authorizing the search of the residence of the Nacua couple at “Rm. No. 2, 2nd Flr., 0475 Dela Rama Cmpd., D. Jakosalem St., Sitio Taup, Brgy. Cogon, Ramos, Cebu City” and seizure of “[u]ndetermined quantity of methamphetamine hydrochloride, a dangerous drug, locally known as Shabu.”⁶

On September 21, 2005, PO3 Luague and PO1 Aniñon, together with Senior Police Officer (SPO) 1 Elmo Y. Rosales (Rosales) and PO1 Julius S. Regis (Regis), implemented the search warrant at the house of the Nacua couple. Also present at the house during the search were Barangay Councilor Omar D. Durano, Sr. and Barangay Tanod Carlito Murillo. In the course thereof, the police officers found and seized the following items at the house of the Nacua couple:

- a. One pc weighing scale
- b. One plastic pack containing fourteen pcs plastic packs
- c. Six pcs drug/clip separators
- d. Six pcs plastic packs with left-over of white substance, now submitted to the PNP crime laboratory for examination
- e. One pc small rolled tin foil
- f. Two pcs safety pins
- g. Twelve pcs small plastic packs

⁴ Id. at 24.

⁵ Id. at 22.

⁶ Id. at 15-A and 25.

- h. One pc gillete razor blade
- i. One pc glass tube tooter
- j. One pc small lamp
- k. Two pcs medical scissors
- l. One pc nail pusher
- m. One pc big rolled tin foil
- n. One pc memo pad
- o. One pc medical forcip
- p. One white floor tile
- q. Two pcs lighters (disposable) color red and white color
- r. Two pcs lighters (disposable) white and silver
- s. Seven pcs small packs with white substance believed to be *shabu* now submitted to the PNP Crime laboratory for examination
- t. One pc five hundred peso paper bill
- u. Three pcs one hundred peso paper bill⁷

Consequently, the police officers immediately arrested the Nacua couple.

The PNP-RCLO, after forensic examination of the specimens submitted to it, particularly, the seven heat-sealed plastic packs containing white crystalline substance with a total weight of 0.17 grams and six plastic packs containing traces of white crystalline substance, issued Chemistry Report No. D-1415-2005 dated September 21, 2005 reporting that all the specimens tested positive for methamphetamine hydrochloride.⁸

SPO1 Rosales, PO3 Luague, PO1 Aniñon, and PO1 Regis executed a Joint Affidavit⁹ on September 22, 2005 recounting how they implemented the search warrant and arrested the Nacua couple the day before, on September 21, 2005.

Teresita was able to post bail for her release on October 6, 2005,¹⁰ but accused-appellant remained in police custody.

On November 8, 2005, Teresita executed a Counter-Affidavit with Motion to Dismiss¹¹ arguing that if it were true that the police officers, during their surveillance, already saw her and accused-appellant selling plastic packs of white crystalline substance, then said police officers could have arrested her and accused-appellant right there and then for committing a crime *in flagrante delicto*; that the allegations of a test-buy conducted on September 2, 2005 were a fabrication and should not be given weight without the affidavit of the informer/poseur-buyer and the marked money; that she was wrongly described as having shoulder-length hair when she actually had longer hair and referred to as “Cita” instead of her real nickname “Tessie” in the Joint Affidavit dated September 16, 2005 of PO3 Luague and PO1 Aniñon; and that her residence and accused-appellant was

⁷ Id. at 27-28.

⁸ Id. at 23.

⁹ Id. at 17-18.

¹⁰ Id. at 16.

¹¹ Id. at 11-14.

located at 70-E Mango Avenue, Cebu City, not Dela Rama Compound, D. Jakosalem Street, Sitio Taup, Barangay Cogon Ramos, Cebu City. In the end, Teresita asserted that the complaint against them failed to establish the elements of the charge of sale of prohibited drugs, to wit: (1) the identity of the buyer and seller, the object, and consideration; and (2) the delivery of the thing sold and payment for the same.

The Office of the City Prosecutor of Cebu City, after its preliminary investigation, issued a Resolution¹² dated November 8, 2005 finding probable cause to indict the Nacua couple for violation of Article 2, Section 5 of Republic Act No. 9165. The said Office reasoned that the purpose of a “test-buy operation” is different from a “buy-bust operation;” and that “[t]he former is conducted for the purpose of applying for a search warrant, and the latter is conducted when it is difficult to locate the residence of the accused or when [his] identity or name cannot be determined with absolute certainty.”

The Information against the Nacua couple, filed before RTC-Branch 58 of Cebu City on November 8, 2005, reads:

That on or about the 2nd day of September 2005, at about 4:35 o’clock P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping each other, with deliberate intent, and without authority of law, did then and there sell, deliver or give away to a poseur buyer one (1) heat-sealed transparent plastic packet of white crystalline substance, weighing 0.02 gram, locally known as shabu, containing methylamphetamine hydrochloride, a dangerous drug.¹³

On July 25, 2006, the RTC issued Warrants of Arrest for Teresita and accused-appellant, and an Order for the detention of accused-appellant at the Bagong Buhay Rehabilitation Center (BBRC) of Cebu City during the pendency of the case.¹⁴

The Warrant of Arrest for Teresita was returned unserved and she was considered to be at-large. Nonetheless, the case proceeded against accused-appellant.

Accused-appellant was arraigned and pleaded not guilty on September 4, 2006.¹⁵ After the pre-trial conference conducted on September 22, 2006,¹⁶ trial proper ensued.

¹² Id. at 4-5.

¹³ Id. at 1.

¹⁴ Id. at 36-38.

¹⁵ Id. at 46 and 48.

¹⁶ Id. at 51.

The prosecution called to witness stand PO1 Aniñon,¹⁷ PO3 Luague,¹⁸ and SPO1 Rosales;¹⁹ but dispensed with the testimony of Jude Daniel Mendoza, a forensic officer, since the parties already stipulated as to the subject of his testimony.²⁰ The documentary and physical evidence for the prosecution, all admitted by the RTC in its Order²¹ dated December 18, 2007, consisted of (1) the Letter-Request dated September 2, 2005 for forensic examination of the white crystalline substance contained in a small heat-sealed plastic pack marked “RN;”²² (2) the PNP-RCLO Chemistry Report No. D-1306-2005 dated September 2, 2005;²³ (3) the Blotter Report dated September 2, 2005;²⁴ (4) the sachet of *shabu*;²⁵ and (5) the Search Warrant No. 1535-09-1605-7 dated September 16, 2005.²⁶

The evidence for the prosecution presented the following version of events:

The chief of office of the concerned police officers received information from a “confidential agent” or informant that the Nacua couple was engaged in the illegal drug trade. This information was relayed to SPO1 Rosales who, in turn, instructed his team members, namely, PO3 Luague and PO1 Aniñon, to conduct a surveillance of the house of the Nacua couple. PO3 Luague and PO1 Aniñon specifically conducted surveillance on August 26, 28, and 30, 2005, observing that youngsters frequent the residence of the Nacua couple.

On September 2, 2005, SPO1 Rosales, PO3 Luague, and PO1 Aniñon conceptualized a “test-buy” operation in furtherance of their investigation and for the purpose of procuring a search warrant from a court. Two ₱100.00 bills were used as “test-buy” money. Together with their informant, PO3 Luague and PO1 Aniñon entered the house of the Nacua couple. After PO1 Aniñon gave the money to accused-appellant, the latter asked Teresita to bring out the *shabu*. Accused-appellant then handed the sachet of suspected *shabu* to PO1 Aniñon. Without arresting the Nacua couple, PO3 Luague, PO1 Aniñon, and the informant left the house of the said couple. The police officers proceeded to their police station, where SPO1 Rosales marked the sachet of suspected *shabu* received from the Nacua couple with the initials “RN” representing the name of accused-appellant and prepared a letter-request for the forensic examination of the same. SPO1 Rosales then designated PO1 Aniñon to turn over the specimen

¹⁷ TSN, February 23, 2007, April 27, 2007, and October 2, 2007.

¹⁸ TSN, October 15, 2007 and October 23, 2007.

¹⁹ TSN, November 12, 2007 and December 18, 2007.

²⁰ Records, p. 119.

²¹ Id. at 119.

²² Id. at 117.

²³ Id. at 118.

²⁴ Id. at 30.

²⁵ In a Certification dated June 4, 2008, Jema C. Carreon, Clerk of Court, Branch 58, RTC of Cebu City, certified that the said evidence is in the custody of the court. (Records, separate brown envelope.)

²⁶ Records, p. 15-A.

to the PNP-RCLO in Cebu City. On the same day, it was confirmed that the crystalline substance contained in the heat-sealed sachet bought from the Nacua couple was indeed *shabu*.

On the basis of the foregoing test-buy, Search Warrant No. 1535-09-1605-7 was issued by the RTC on September 16, 2005, which was implemented on September 21, 2005, during the course of which, accused-appellant and Teresita were arrested. The test-buy money was no longer recovered.

Accused-appellant²⁷ offered his lone testimony, generally belying the charge against him. Accused-appellant claimed that he was a Jai-alai coordinator before his arrest and denied selling *shabu* at his residence on September 2, 2005. He also insisted that for the past 20 years, he had been residing at the house of Teresita's parents at 70-E Mango Avenue, Cebu City.

On March 19, 2008, the RTC promulgated its Decision finding accused-appellant guilty beyond reasonable doubt of the crime charged. The RTC decreed thus:

Accordingly, this court finds accused, Reynaldo Nacua, also known as Roque Reynaldo Nacua, **GUILTY** beyond reasonable doubt of the crime charged and hereby sentences him to suffer Life Imprisonment.

Issue an alias warrant of arrest against Teresita V. Nacua, who was never arraigned as she had remained at large.

The pack of shabu, Exh. "C," is confiscated in favor of the state for proper disposition.²⁸

On the same day, accused-appellant filed his Notice of Appeal.²⁹ On April 24, 2008, the RTC issued an Order committing the person of accused-appellant to the Bureau of Corrections.³⁰

Accused-appellant, represented by the Public Attorney's Office, filed his Brief³¹ before the Court of Appeals, ascribing the following errors on the part of the RTC:

I

THE COURT A QUO ERRED IN APPRECIATING THE SUSPECTED SHABU AGAINST ACCUSED-APPELLANT DESPITE NAGGING DOUBTS ON ITS IDENTITY FOR FAILURE ON THE PART OF THE ARRESTING OFFICER TO FOLLOW THE STATUTORY REQUIREMENTS UNDER SECTION 21 OF RA 9165.

²⁷ TSN, March 4, 2008.

²⁸ Records, p. 135.

²⁹ Id. at 149-151.

³⁰ Id. at 153.

³¹ CA *rollo*, pp. 22-47.

II

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

III

THE COURT A QUO ALSO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED BY RELYING ON THE WEAKNESS OF THE DEFENSE RATHER THAN ON THE STRENGTH OF THE PROSECUTION'S EVIDENCE.³²

Plaintiff-appellee, represented by the Office of the Solicitor General, filed its Brief,³³ countering that:

I

ACCUSED-APPELLANT'S GUILT WAS PROVEN BEYOND REASONABLE DOUBT.

II

NON-OBSERVANCE OF PROCEDURE MANDATED BY RA 9165 IN THE CUSTODY AND INVENTORY OF SEIZED ILLEGAL DRUGS IS NOT FATAL TO THE PROSECUTION OF ACCUSED-APPELLANT.³⁴

In its Decision dated July 28, 2011, the Court of Appeals affirmed with modification the RTC judgment, sentencing accused-appellant as follows:

WHEREFORE, the appeal is **DISMISSED**. The assailed Decision is **AFFIRMED with MODIFICATION**. Accused-appellant is sentenced to suffer the penalty of LIFE IMPRISONMENT, and to pay a fine of Five Hundred Thousand Pesos (₱500,000.00).³⁵

Hence, this appeal.

In a Resolution³⁶ dated February 22, 2012, the Court required the parties to file their respective supplemental briefs. Accused-appellant manifested that he has already exhausted his arguments before the Court of Appeals, thus, he would no longer file any supplemental brief,³⁷ while plaintiff-appellee filed its Supplemental Brief³⁸ on June 8, 2012.

In his Brief, accused-appellant maintains that the prosecution failed to prove his guilt beyond reasonable doubt. Aside from the testimonies of the

³² Id. at 24.

³³ Id. at 51-74.

³⁴ Id. at 52.

³⁵ *Rollo*, pp. 16-17.

³⁶ Id. at 22-23.

³⁷ Id. at 31-33.

³⁸ Id. at 24-30.

police officers, no other credible evidence was offered to substantiate the alleged sale of *shabu*. The consideration for the purported sale, an essential element of the crime charged, was not at all proved as no “test-buy” money was recovered from him and Teresita. In addition, the confidential agent or informant of the police, who purportedly took part in the “test-buy” operation, was not identified and presented by the prosecution as a corroborating witness. The testimony of said confidential agent or informant was potentially relevant to accused-appellant’s defense and the non-presentation of said witness effectively deprived accused-appellant of his constitutional right to examine his accuser.

Accused-appellant likewise bewails the total lack of compliance with Section 21 of Republic Act No. 9165, intended to safeguard the integrity and evidentiary value of the *shabu* he purportedly sold and delivered to the police officers during the purported “test-buy” on September 2, 2005. Accused-appellant cites jurisprudence applying the chain of custody rule in dangerous and illegal drugs cases, which require that the marking of the seized items must be done (1) in the presence of the apprehended violator and (2) immediately upon its confiscation, to truly ensure that the seized items are the same items that enter the chain and are eventually offered in evidence. In his case, accused-appellant points out, there was no proper marking, photography, or physical inventory of the *shabu* which he allegedly sold and delivered to the police officers during the supposed “test-buy.” Also, the identity of the person who had custody and safekeeping of the alleged *shabu*, following its forensic examination and pending its presentation in court, had never been disclosed. The prosecution did not proffer any justifiable explanation for non-compliance with the aforementioned requirements of the law and jurisprudence.

And while accused-appellant admits that he failed to present evidence of ill motive on the part of the police officers for falsely testifying against him, accused-appellant argues that to require him to prove his innocence is contrary to his fundamental right to be presumed as such.

Plaintiff-appellee avows that the prosecution had duly proven accused-appellant’s guilt. The testimonies of the police officers deserve full faith and credit on the presumption that they had regularly performed their duties. This presumption could only be overturned by clear and convincing evidence that the public officer is: (1) not properly performing his duty, or (2) that he was inspired by improper motive. Accused-appellant failed to show both.

Plaintiff-appellee also posits that Section 21 of Republic Act No. 9165 is inapplicable in cases where the arrest was not pursuant to a buy-bust operation. Even assuming that the said provision applies to accused-appellant’s case, accused-appellant raised the issue of non-compliance with the same only for the first time on appeal, therefore, he should be deemed to have waived such defense. Plaintiff-appellee further argues that non-

compliance with Section 21 of Republic Act No. 9165 does not render void the items seized or confiscated as long as their integrity and evidentiary value has been preserved, as in this case. The sachet of *shabu* received from the Nacua couple were clearly marked with the initials “RN” before it was submitted for forensic examination, and retained the said marking even after, thus, enabling PO1 Aniñon to identify and affirm that the sachet of *shabu* presented in court was the same one bought and received from the Nacua couple during the “test-buy” on September 2, 2005.

Accused-appellant’s appeal is impressed with merit.

Sale or possession of a dangerous drug can never be proven without seizure and identification of the prohibited drug. In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt. Of paramount importance, therefore, in these cases is that the identity of the dangerous drug be likewise established beyond reasonable doubt.³⁹

Given the unique characteristic of dangerous and illegal drugs which are indistinct, not readily identifiable, and easily susceptible to tampering, alteration, or substitution, either by accident or otherwise, there must be strict compliance with the prescribed measures to be observed during and after the seizure of dangerous drugs and related paraphernalia, during the custody and transfer thereof for examination, and at all times up to their presentation in court.⁴⁰ Such measures are described with particularity under Section 21(1) of Republic Act No. 9165 and Section 21(a) of the Implementing Rules and Regulations (IRR) of Republic Act No. 9165, which read:

Section 21(1) of Rep. Act 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 precursor 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**

³⁹ *People v. Suan*, G.R. No. 184546, February 22, 2010, 613 SCRA 366, 379.

⁴⁰ *People v. Magpayo*, G.R. No. 187069, October 20, 2010, 634 SCRA 441, 449.

shall be required to sign the copies of the inventory and be given a copy thereof. (Emphases supplied.)

Section 21(a) of the IRR of Rep. Act 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 precursor 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[.] (Emphases supplied.)

Moreover, in *People v. Coreche*,⁴¹ the Court emphasized that the marking of the seized drugs must be done *immediately after* they are seized from the accused and failure to do so suffices to rebut the presumption of regularity in the performance of official duties and raises reasonable doubt as to the authenticity of the *corpus delicti*, wit:

Crucial in proving chain of custody is the marking of the seized drugs or other related items immediately after they are seized from the accused. Marking after seizure is the starting point in the custodial link, thus it is vital that the seized contraband are immediately marked because succeeding handlers of the specimens will use the markings as reference. The marking of the evidence serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of criminal proceedings, obviating switching, “planting,” or contamination of evidence.

Long before Congress passed RA 9165, this Court has consistently held that failure of the authorities to immediately mark the seized drugs raises reasonable doubt on the authenticity of the *corpus delicti* and suffices to rebut the presumption of regularity in the performance of official duties, the doctrinal fallback of every

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G.R. No. 182528, August 14, 2009, 596 SCRA 350, 357-358.

drug-related prosecution. Thus, in *People v. Laxa* and *People v. Casimiro*, we held that the failure to mark the drugs immediately after they were seized from the accused casts doubt on the prosecution evidence, warranting acquittal on reasonable doubt. These rulings are refinements of our holdings in *People v. Mapa* and *People v. Dismuke* that doubts on the authenticity of the drug specimen occasioned by the prosecution's failure to prove that the evidence submitted for chemical analysis is the same as the one seized from the accused suffice to warrant acquittal on reasonable doubt. (Emphasis supplied, citations omitted.)

In this case, there was a total disregard of the requirements of law and jurisprudence. The prosecution even admits that the police officers acquired the sachet of *shabu* presented in court against accused-appellant in a mere "test-buy" operation by SPO1 Rosales, PO3 Luague, and PO1 Aniñon. The police officers, after supposedly buying the sachet of *shabu* from the Nacua couple for Two Hundred Pesos (₱200.00), left the residence of the Nacua couple, without recovering the marked money or effecting the couple's arrest. The police officers brought the sachet of suspected *shabu* all the way back to their police station, and only there marked the said item, without the presence of the accused and/or other disinterested witnesses.

While the Court allows for relaxation of the rules in some cases, there must be compelling and justifiable grounds for the same and it must be shown that the integrity and evidentiary value of the seized items have been properly preserved. However, such conditions are not present in the instant case.

Firstly, the prosecution did not offer any explanation as to why the police officers failed to strictly comply with the established procedure for the custody of the suspected *shabu*. The Court can only surmise that the operation on September 2, 2005 was only meant to be a "test-buy," so that the police officers could secure a search warrant for the house of the Nacua couple. There was no original intention to arrest and charge the Nacua couple for the *shabu* purchase that day. Surprisingly and inexplicably, however, the prosecution chose to indict the Nacua couple for the "test-buy" conducted on September 2, 2005, rather than for the result of the search conducted on September 21, 2005 at the house of the Nacua couple which purportedly yielded more *shabu* and related paraphernalia and led to the arrest of the couple.


Secondly, the prosecution failed to show that the integrity and evidentiary value of the sachet of suspected *shabu* allegedly bought from the Nacua couple during the "test-buy" operation has been properly preserved from the time said item was transmitted to the crime laboratory up to its presentation in court. No evidence was offered to show as to how the said specimen was kept and by whom after its forensic examination throughout its presentation in court.

With reasonable doubt as to the authenticity of the *corpus delicti*, the acquittal of accused-appellant of the crime charged is in order.


WHEREFORE, the Decision dated June 28, 2011 of the Court of Appeals in CA-G.R. CEB-CR-H.C. No. 00896 is hereby **REVERSED** and **SET ASIDE**. Accused-appellant Reynaldo Nacua is hereby **ACQUITTED** of the crime charged on the ground of reasonable doubt.

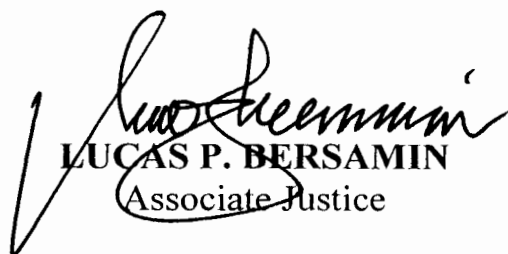
The Director of the Bureau of Corrections is **ORDERED** to immediately **RELEASE** Reynaldo Nacua from custody, unless he is detained for some other lawful cause, and to report to this Court compliance within five (5) days from receipt of this Decision.

SO ORDERED.



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

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

**MARIA LOURDES P. A. SERENO**

Chief Justice