Republic of the Philippines
SUPREME COURT
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No. 201845**
	Present:
- versus -	VELASCO, JR., *J.*, Chairperson, BRION,* ABAD, MENDOZA, and
EDGARDO ADRID y FLORES, Accused-Appellant.	LEONEN, *JJ.*
	Promulgated:
	March 6, 2013

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DECISION

VELASCO, JR., *J.*:

The Case

This is an appeal from the Decision[1] dated February 24, 2011 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03775, which affirmed the judgment of the Regional Trial Court (RTC), Branch 35 in Manila, in Criminal Case No. 06-247286, finding accused-appellant Edgardo Adrid y Flores (Adrid) guilty beyond reasonable doubt of illegal sale of methamphetamine hydrochloride, commonly known as *shabu*, in violation of Section 5, Article II of Republic Act No. (RA) 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

The Facts

In two separate Informations[2] filed on October 11, 2006, Adrid was charged with violation of Secs. 5 and 11, Art. II of RA 9165, allegedly committed as follows:

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* Additional member per raffle dated June 18, 2012.

[1] *Rollo*, pp. 2-16. Penned by Associate Justice Antonio L. Villamor and concurred in by Associate Justices Jose C. Reyes, Jr. and Michael P. Elbinias.

[2] Records, pp. 2-3.

Crim. Case No. 06-247286

That on or about October 8, 2006, in the City of Manila, Philippines, the said accused, without being authorized by law to sell, trade, deliver, or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell to SPO1 ARISTEDES MARINDA, who acted as poseur-buyer, one (1) heat-sealed transparent plastic sachet of white crystalline substance marked by the police as "DAID-1" with net weight of ZERO POINT ZERO EIGHT SIX (0.086) gram, commonly known as "SHABU", which substance, after a qualitative examination, gave positive results for methylamphetamine hydrochloride, which is a dangerous drug.

Crim. Case No. 06-247287

That on or about October 8, 2006, in the City of Manila, Philippines, the said accused, without being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully, and knowingly have in his possession and under his custody and control white crystalline substance contained in one (1) heat-sealed transparent plastic sachet marked by the police as "DAID-2" with net weight of ZERO POINT ZERO SIX SIX (0.066) gram, known as "SHABU" containing Methylamphetamine hydrochloride, a dangerous drug.

At the instance of the prosecution, these cases were consolidated with Crim. Case No. 06-247288 against Romeo Pacaul y Lagbo (Pacaul), who was arrested together with Adrid during the same buy-bust incident. When arraigned, Adrid pleaded not guilty.[3]

During the pre-trial, the parties agreed to dispense with the testimony of Forensic Chemical Officer Police Senior Inspector Maritess Mariano (PS/Insp. Mariano) and stipulated on the tenor of her testimony to the following effect: she was a Forensic Chemical Officer of the Western Police District Crime Laboratory, and on duty on October 9, 2009; on that day, she received a memorandum-request from the District Anti-Illegal Drugs-Special Operations Task Group (DAID-SOTG); said memorandum came with three plastic sachets containing white crystalline substance; her examination of the substance presented yielded a positive result for methylamphetamine hydrochloride.[4]

Trial on the merits ensued.

[3] Id. at 57.
[4] Id. at 60-61.

Version of the Prosecution

The prosecution's account of the events, pieced together from the testimony of Senior Police Officer 1 Aristedes Marinda (SPO1 Marinda)[5] and documentary and object evidence, is as follows:

At around 10 o'clock in the evening of October 8 2006, a male informant arrived at the Manila Police District (MPD) Anti-Illegal Drugs Unit (DAID) to report that one "Jon Jon" is pushing illegal drugs at Chesa, Tondo, Manila.[6] Acting on this tip, the DAID Chief immediately formed a team to conduct a buy-bust operation and named a certain SPO1 Macasling as team leader. Designated as poseur-buyer was SPO1 Marinda, while Police Officer 1 Jaycee John Galutera and Police Officer 2 Arnold Delos Santos (PO2 Delos Santos) were to serve as back-up officers. Following the usual instructions, the buy-bust group was given two PhP 100 bills bearing the initials "DAID," to serve as marked money.[7]

Thereafter, or at about 10:30 p.m., the operatives proceeded to the target area. Once there, the informant approached and then had a brief conversation with a person, later identified as "Jon Jon," standing at the entry of an alley. The informant then called SPO1 Marinda, who, after being introduced to "Jon Jon," expressed his desire to purchase s*habu* as test buy to determine the quality of the goods.[8]

During the course of the negotiations, Pacaul arrived and asked Adrid in the vernacular, "*Tol, pakuha ng pang-gamit lang may bisita lang ako*." (Bro, can you give me some, I have a visitor.) SPO1 Marinda then saw Adrid hand over to Pacaul one plastic sachet containing suspected *shabu*. Pacaul then left the scene, and PO2 Delos Santos immediately followed him.[9]

The negotiations continued, and SPO1 Marinda told the accused that he is buying "*dos*," meaning, that he was buying the value of PhP 200. The accused replied, "*Sigue ho, meron naman ho ako ng halagang hinahanap ninyo*."[10] (Okay sir, I have the amount you are looking for). He then handed to SPO1 Marinda a sealed plastic sachet, with a white substance in the appearance of "*vetsin*."[11] SPO1 Marinda received the filled sachet with his left hand, and handed Adrid the PhP 200 marked money using his right hand. This sachet was later marked as "DAID-1." SPO1 Marinda then immediately grabbed Adrid's arm, introduced himself as a police officer,

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[5] "SPO2 Marinda" in some parts of the records.
[6] TSN, October 11, 2007, pp. 3-4.
[7] Id. at 5-6.
[8] Id. at 7-8.
[9] Records, p. 8.
[10] TSN, October 11, 2007, p. 9.
[11] Id.

and arrested the latter.[12] Found in Adrid's possession when frisked was another sachet of suspected *shabu*, later marked as "DAID-2." Some persons who tried to intervene in the entrapment episode were likewise arrested.

From the target area, Adrid and two other individuals were brought to MPD DAID. There, the police officers learned that the real name of "Jon Jon" is Edgardo Adrid, the same accused in the case here. In his testimony during the trial, SPO1 Marinda claimed that he turned over the plastic sachets recovered from Adrid, together with the marked money, to the investigator at DAID, a certain SPO1 Pama who, in his (SPO1 Marinda's) presence, marked the recovered sachets as "DAID-1"[13] and "DAID-2." The sachet recovered from Pacaul was marked as "DAID-3."

SPO1 Marinda's direct narrative ended with the statement that these three sachets were submitted for laboratory examination to the DAID Forensic Chemistry Division. He, however, admitted having no participation in the submission of the specimen for examination. The examination later yielded positive results for methylamphetamine hydrochloride or *shabu*.[14]

During cross-examination, SPO1 Marinda testified that prior to the buy-bust operation, his group coordinated with the Philippine Drug Enforcement Agency (PDEA). He was not sure, however, if the pre-operation report is present in the records of the case, albeit he admitted not indicating the fact of coordination in his Affidavit of Apprehension.[15]

Version of the Defense

The evidence for the defense, meanwhile, consisted of the lone testimony of accused Adrid himself. His narration of what purportedly transpired during the period material is as follows:

On October 6, 2006, at about 7:30 in the evening, after having supper, several men suddenly entered his house on Magsaysay St., Tondo, Manila, introduced themselves as police officers and without so much of an explanation apprehended and handcuffed him.[16] When he asked them, "*ano po ang kasalanan ko, bakit ninyo ako hinuhuli* sir?" (What did I do sir, why are you arresting me?), the intruders simply gave a dismissive reply, "*sumama ka na lang sa amin*."[17] (Just come with us.)

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[12] Id. at 10-12.
[13] Id. at 16.
[14] Records, p. 76
[15] TSN, October 11, 2007, p. 21.
[16] TSN, March 4, 2008, p. 3.
[17] Id. at 4.

At the MPD DAID, he was mauled and forced to admit something regarding the sale of drugs.[18] The police, according to Adrid, was actually after a certain "Jon Jon" who was into selling drugs, but who have given the police officers a slip. For its failure to nab "Jon Jon," the police turned to Adrid to admit to some wrongdoings.[19] And albeit he has no actual knowledge of "Jon Jon's" full name, he is aware of his being a well-known drug lord in their area and knows where "Jon Jon" lives, as he, "Jon Jon" has in fact been to his (Adrid's) house three times to have a PlayStation game.[20]

The Ruling of the RTC

After trial, the Manila RTC rendered on October 22, 2008 a Joint Decision,[21] finding the accused Adrid guilty beyond reasonable doubt in Crim. Case No. 06-247286 (sale of illegal drugs). The trial court, however, acquitted Adrid in Crim. Case No. 06-247287 and Pacaul in Crim. Case No. 06-247288 (both for illegal possession of drugs), for insufficiency of evidence to sustain a conviction. The *fallo* of the RTC Decision, in its pertinent part, reads:

> ACCORDINGLY, judgment is hereby rendered as follows:
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> 1. In Criminal Case No. 06-247286 finding the accused Edgardo Adrid y Flores GUILTY beyond reasonable doubt of the offense of Violation of Section 5, Article II of RA [9165] (Sale of Dangerous Drug), he is hereby sentenced to suffer the penalty of life imprisonment; to pay a fine of Five Hundred [Thousand] (P500,000) Pesos; and cost of suit;
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>   Let a commitment order be issued for the transfer of his custody to the Bureau of Corrections, Muntinlupa City, pursuant to SC OCA Circulars Nos. 4-92-A and 26-2000;
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> 2. With respect to Criminal Case No. 06-247287, finding the evidence insufficient to establish the guilt of accused Edgardo Adrid y Flores beyond reasonable doubt, he is hereby ACQUITTED of the offense charged therein;
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> 3. With respect to Criminal Case No. 06-247288, finding the evidence insufficient to establish the guilt of accused Romeo Pacaul y Lagbo beyond reasonable doubt, he is hereby ACQUITTED of the offense charged.
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> x x x x

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[18] Id. at 5.
[19] Id. at 5-6.
[20] Id. at 6-7.
[21] CA *rollo*, pp. 14-18. Penned by Judge Eugenio C. Mendinueto.

> The plastic sachet with shabu (Exh. "C"), as well as Exhs. "D" and "E", which were also positive for shabu, are hereby confiscated in favor of the Government. x x x
>
> SO ORDERED.

The trial court based its judgment of conviction on the charge of illegal sale on the combined application of the following factors: (1) SPO1 Marinda's inculpatory testimony which was given in a positive, categorical, and straightforward manner and thus worthy of belief; (2) the absence of credible evidence of bad faith or other improper motive on the part of the police officers; and (3) the presumption of regularity in the performance of official duties.[22]

As to the identity of the dangerous drugs seized and presented in court in evidence, the RTC stated the following observations:

> Thus, as testified to by SPO1 Marinda, from the place of arrest and recovery, he was in custody of the dangerous drug involved in this case (Exh. "C"). Upon arrival at the police station, he promptly turned it over to the duty investigator, SPO1 Pama who placed markings thereon of the capital letters "DAID", in his presence. Thereafter, it was brought to the MPD Crime Laboratory for chemical analysis of its contents which gave positive result for methylamphetamine hydrochloride, or "shabu", a dangerous drug. The specimen itself was produced in Court and was positively identified by SPO1 Marinda as the same plastic sachet with white crystalline substance which accused handed to him in exchange for the two One Hundred Peso bills buy-bust money (Exhs. "G" and "G-1").[23]

On December 3, 2008, Adrid filed a Notice of Appeal,[24] pursuant to which the RTC forwarded the records to the CA.

The Ruling of the CA

On February 24, 2011, the CA rendered its assailed affirmatory Decision, disposing as follows:

> WHEREFORE, the foregoing premises considered, the judgment of the Regional Trial Court (RTC), National Capital Region, Branch 35, Manila in Criminal Case No. 06-247286 is AFFIRMED.

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[22] Id. at 16.
[23] Id. at 17.
[24] Id. at 20.

Just like the RTC, the CA gave credence to the testimony of SPO1 Marinda to prove a consummated sale of a prohibited drug involving Adrid,[25] noting in this regard that the integrity and evidentiary value of the confiscated prohibited drug had been properly preserved, thus satisfying the rule on chain of custody.[26]

On the conduct of the buy-bust operation, the CA rejected Adrid's protestation about the lack of prior surveillance before the buy-bust operation was set in motion. As the appellate court stressed, a prior surveillance is not a prerequisite for the validity of an entrapment operation,[27] which is presumed to have been conducted regularly, absent proof of ill motive on the part of the apprehending police officers.[28]

Hence, this appeal.

On July 30, 2012, this Court, by Resolution, required the parties to submit supplemental briefs if they so desired. The People, through the Office of the Solicitor General, manifested having already exhaustively addressed the issues and arguments involving the case, and expressed its willingness to submit the case on the basis of available records. Similarly, appellant Adrid manifested that he is adopting all the defenses and arguments that he raised in his Appellant's Brief before the CA, capsulated in the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE PROSECUTION'S VERSION DESPITE THE PATENT IRREGULARITIES IN THE CONDUCT OF THE BUY-BUST OPERATION.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE CHAIN OF CUSTODY OF THE DRUG SPECIMEN ALLEGEDLY CONFISCATED.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[29]

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[25] *Rollo*, p. 12.
[26] Id. at 14.
[27] Id. at 12.
[28] Id. at 14-15.
[29] CA *rollo*, p. 41.

In fine, the issues raised by appellant revolve around the conduct of the buy-bust operation, and the subsequent handling and examination of the seized substance inside the sachet. Appellant insists that the incredibility of the manner of the conduct of the supposed buy-bust operation supports his claim that there was no such operation and that he was, in fact, a victim of a frame-up.[30] Even assuming that the buy-bust operation was actually conducted, appellant argues, he deserves to be acquitted for the prosecution's failure to establish his guilt beyond reasonable doubt.

The Court's Ruling

The appeal is meritorious. Appellant must be acquitted but not because of his defense of frame-up or the perceived flaw in the conduct of the buy-bust which, as alleged, was carried out without prior surveillance and in coordination with the PDEA.

The Court has long held that the absence of a prior surveillance is neither a necessary requirement for the validity of a drug-related entrapment or buy-bust operation nor detrimental to the People's case. The immediate conduct of the buy-bust routine is within the discretion of the police officers, especially, as in this case, when they are accompanied by the informant in the conduct of the operation. We categorically ruled in *People v. Lacbanes*:[31]

> x x x In *People v. Ganguso,* it has been held that prior surveillance is not a prerequisite for the validity of an entrapment operation, especially when the buy-bust team members were accompanied to the scene by their informant. In the instant case, the arresting officers were led to the scene by the poseur-buyer. Granting that there was no surveillance conducted before the buy-bust operation, this Court held in *People v. Tranca,* that there is no rigid or textbook method of conducting buy-bust operations. Flexibility is a trait of good police work. The police officers may decide that time is of the essence and dispense with the need for prior surveillance. (citations omitted)

Of the same tenor is the holding in *People v. Dela Rosa,*[32] We underscored the leeway given to the police officers in conducting buy-bust operations:

> That no test buy was conducted before the arrest is of no moment for there is no rigid or textbook method of conducting buy-bust operations. For the same reason, the absence of evidence of a prior surveillance does not affect the regularity of a buy-bust operation, especially when, like in this case, the buy-bust team members were accompanied to the scene by their informant. The Court will not pretend to establish on *a priori* basis what detailed acts police authorities might credibly undertake and carry

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[30] CA *rollo*, p. 41.
[31] 336 Phil. 933, 941 (1997).
[32] G.R. No. 185166, January 26, 2011, 640 SCRA 635, 649.

> out in their entrapment operations. The selection of appropriate and effective means of entrapping drug traffickers is best left to the discretion of police authorities.

Whether or not the buy-bust team coordinated PDEA is, under the premises, of little moment, for coordination with PDEA, while perhaps ideal, is not an indispensable element of a proper buy-bust operation. The Court, in *People v. Roa*, has explained the rationale and practicality of this sound proposition in the following wise:

> In the first place, coordination with the PDEA is not an indispensable requirement before police authorities may carry out a buy-bust operation. While it is true that Section 86 of Republic Act No. 9165 requires the National Bureau of Investigation, PNP and the Bureau of Customs to maintain "close coordination with the PDEA on all drug-related matters," the provision does not, by so saying, make PDEA's participation a condition *sine qua non* for every buy-bust operation. After all, a buy-bust is just a form of an *in flagrante* arrest sanctioned by Section 5, Rule 113 of the Rules of the Court, which police authorities may rightfully resort to in apprehending violators of Republic Act No. 9165 in support of the PDEA. A buy-bust operation is not invalidated by mere non-coordination with the PDEA.[33]

Neither can appellant's defense of alibi or frame-up save the day for him. Frame-up, denial, or alibi, more particularly when based on the accused's testimony alone, as here, is an inherently weak form of defense. As the prosecution aptly observed and as jurisprudence itself teaches, the defense of denial or frame-up has been viewed with disfavor for it can easily be concocted and is a common defense plot in most prosecutions for violations of anti-drug laws. Bare denial of an accused cannot prevail over the positive assertions of apprehending police operatives, absent ill motives on the part of the latter to impute such a serious crime as possession or selling of prohibited drugs.[34]

The foregoing notwithstanding, appellant is still entitled to an acquittal considering that certain critical circumstances that had been overlooked below, which, if properly appreciated, engender moral uncertainty as to his guilt. Nothing less than evidence of criminal culpability beyond reasonable doubt can overturn the presumption of innocence. In this regard, the onus of proving the guilt of the accused lies with the prosecution which must rely on the strength of its own evidence and not on the weakness of the defense.

In every prosecution for illegal sale of dangerous drugs under Sec. 5, Art. II of RA 9165, the following elements must concur: (1) the identities of the buyer and seller, object, and consideration; and (2) the delivery of the

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[33] G.R. No. 186134, May 6, 2010, 620 SCRA 359, 368-370.
[34] *People v. Dela Rosa*, supra note 32, at 656-657.

thing sold and the payment for it.[35] As it were, the dangerous drug itself forms an integral and key part of the *corpus delicti* of the offense of possession or sale of prohibited drugs. Withal, it is essential in the prosecution of drug cases that the identity of the prohibited drug be established beyond reasonable doubt. This means that on top of the elements of possession or illegal sale, the fact that the substance illegally sold or possessed is, in the first instance, the very substance adduced in court must likewise be established with the same exacting degree of certitude as that required sustaining a conviction. The chain of custody requirement, as stressed in *People v. Cervantes*,[36] and other cases, performs this function in that it ensures that unnecessary doubts respecting the identity of the evidence are minimized if not altogether removed. *People v. Cervantes* describes the mechanics of the custodial chain requirement, thusly:

> As a mode of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. In context, this would ideally include testimony about every link in the chain, from the seizure of the prohibited drug up to the time it is offered into evidence, in such a way that everyone who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition it was delivered to the next link in the chain.[37] x x x

The Court has to be sure stressed the need for the strict adherence to the custodial chain process and explained the reason behind the rules on the proper procedure in handling of specimen illegal drugs. *People v. Obmiranis*[38] readily comes to mind:

> The Court certainly cannot reluctantly close its eyes to the possibility of substitution, alteration or contamination—whether intentional or unintentional—of narcotic substances at any of the links in the chain of custody thereof especially because practically such possibility is great where the item of real evidence is small and is similar in form to other substances to which people are familiar in their daily lives. x x x
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> Reasonable safeguards are provided for in our drugs laws to protect the identity and integrity of narcotic substances and dangerous drugs seized and/or recovered from drug offenders. **Section 21 of R.A. No. 9165** materially requires the apprehending team having initial custody and control of the drugs to, 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, and any elected public official who

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[35] *People v. Politico*, G.R. No. 191394, October 18, 2010, 633 SCRA 404, 412; citing *People v. Alberto*, G.R. No. 179717, February 5, 2010, 611 SCRA 706, 713.

[36] G.R. No. 181494, March 17, 2009, 581 SCRA 762.

[37] Id. at 777; citing *Malillin v. People*, G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632.

[38] G.R. No. 181492, December 16, 2008, 574 SCRA 140, 151-155.

> shall be required to sign the copies of the inventory and be given a copy thereof. The same requirements are also found in Section 2 of its implementing rules as well as in Section 2 of the Dangerous Drugs Board Regulation No. 1, series of 2002. (Emphasis supplied.)

In the same case, We stressed why evidence of an unbroken chain of custody of the seized illegal drugs is necessary:

> Be that as it may, although testimony about a perfect chain does not always have to be the standard because it is almost always impossible to obtain, an unbroken chain of custody indeed becomes indispensable and essential when the item of real evidence is a narcotic substance. A unique characteristic of narcotic substances such as *shabu* is that they are not distinctive and are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. And because they cannot be readily and properly distinguished visually from other substances of the same physical and/or chemical nature, they are susceptible to alteration, tampering, contamination, substitution and exchange—whether the alteration, tampering, contamination, substitution and exchange be inadvertent or otherwise not. It is by reason of this distinctive quality that the condition of the exhibit at the time of testing and trial is critical. Hence, in authenticating narcotic specimens, a standard more stringent than that applied to objects which are readily identifiable must be applied—a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or contaminated or tampered with.[39]

Appellant contends that the police officers failed to follow the proper procedure laid down in Sec. 21 of RA 9165, in relation to the chain of custody rule. He argues:

> [T]he prosecution failed to supply all the links in the chain of custody rule. SPO2 Marinda testified that he supposedly turned-over the confiscated plastic sachets to the investigator SPO1 Pama. However, the latter was never presented to testify on this matter. The prosecution also failed to testify on what happened to the subject specimens after these were turned-over to Pama and who delivered these to the forensic chemist. Thus, there is an unexplained gap in the chain of custody of the dangerous drug, from the time the same were supposedly seized by SPO2 Marinda from accused-appellant, until these were turned-over to the crime laboratory.
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> It also appears that the prosecution's evidence failed to reveal the identity of the person who had the custody and safekeeping of the drugs after its examination and pending its presentation in court. This unexplained link also created doubt as to the integrity of the evidence. This should have been considered as a serious source of doubt favorable to the accused-appellant.[40]

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[39] Id. at 150-151.
[40] CA *rollo*, pp. 43-44.

Appellant's contention is very much well-taken. The Court particularly notes that of the individuals who came into direct contact with or had physical possession of the sachets of *shabu* allegedly seized from appellant, only SPO1 Marinda testified for the specific purpose of identifying the evidence. But his testimony failed to sufficiently demonstrate an unbroken chain, for he himself admits that at the police station he transferred the possession of the specimen to an investigator at the MPD DAID, one SPO1 Pama to be precise. The following is the extent of SPO1 Marinda's testimony regarding his knowledge of the whereabouts of the specimen:

Q You said you received the plastic container containing the supposed shabu from John John, what happened to that plastic sachet?

A I turned that over to out investigator at DAID.

Q So you were the one who brought that from the scene of the incident to your office?

A Yes, sir.

Q And after you turned over the stuff to the investigator, what happened to that, if any?

A It was marked by our investigator DAID-1.

COURT:

Q Who marked the evidence?

A Our investigator, Your Honor.

Q Who is he?

A SPO1 Pama, Your Honor.

FISCAL:

Q And how did you know that it was marked with DAID-1?

A We were present when it was marked, sir.

x x x x

Q And after you turned over the plastic sachet and alias Jon-Jon to the investigator, what happened next?

A The evidence were submitted to the laboratory for examination, sir.[41]

And after this turnover of the specimen, SPO1 Marinda no longer had personal knowledge of the whereabouts of the shabu-containing sachet. In plain language, the custodial link ended with SPO1 Marinda when he testified that the specimen was submitted for laboratory examination, he was veritably assuming the occurrence of an event; he was not testifying on the fact of submission out of personal knowledge, because he took no part in the transfer of the specimen from the police station to the laboratory. This testimony of SPO1 Marinda alone, while perhaps perceived by the courts below as straightforward and clear, is incomplete to satisfy the rule on chain of custody.

It baffles this Court no end why the prosecution opted not to present the investigator, identified as SPO1 Pama, to whom SPO1 Marinda allegedly handed over the confiscated sachets for recording and marking. If SPO1 Pama indeed received the sachets containing the illegal drugs and then turned them over to the laboratory for testing, his testimony is vital in establishing the whereabouts of the seized illegal drugs and how they were handled from the time SPO1 Marinda turned them over to him, until he actually delivered them to the laboratory. He could have accounted for the whereabouts of the illegal drugs from the time he possessed them.

The indispensability of SPO1 Pama testimony cannot be over-emphasized. He could have provided the link between the testimony of SPO1 Marinda and the tenor of the testimony of PS/Insp. Mariano, which the prosecution and appellant have already stipulated on. As the evidence on record stands, there is a considerable amount of time, a gaping hiatus as it were, in which the whereabouts of the illegal drugs were unaccounted for. This constitutes a clear but unexplained break in the chain of custody. Then too no one testified on how the specimen was handled and cared following the analysis. And of course no one was presented to prove that the specimen turned over for analysis, if that be the case, and eventually presented in court as exhibits were the same substance SPO1 Pama received from SPO1 Marinda. There are so many unanswered questions regarding the possibility of evidence tampering and the identity of evidence. These questions should be answered satisfactorily to determine whether the integrity and the evidentiary value of the seized substance have been compromised in any way. Else, the prosecution cannot plausibly maintain that it was able to prove the guilt of appellant beyond reasonable doubt.[42] Thus, the trial court

[41] TSN, October 11, 2007, pp. 16-17.
[42] *People v. Ong*, G.R. No. 137348, June 21, 2004, 432 SCRA 470, 490.

should not have easily accorded the drugs presented in court much credibility.

Not lost on the Court is the prosecution's admission that the "**Forensic Chemical Officer has no personal knowledge as to where or from whom the specimen she examined originally came from x x x; that several hands got hold of the said specimen before the presentation of the same in court**."[43] This admission puts into serious question whether it was in fact the same SPO1 Pama who turned over the specimen for laboratory testing, or some other police officer or person took possession of the specimen before it was brought to the laboratory.

The prosecution's own misgivings created a reasonable doubt on the integrity of the drugs presented in court, and necessarily strongly argue against a finding of guilt. As the Court stated in *Malillin v. People*, "When moral certainty as to culpability hands in the balance, acquittal on reasonable doubt inevitably becomes a matter of right."[44]

Apropos too is what the Court said in *People v. Almorfe*:

> The presentation of the drugs which constitute the corpus delicti of the offenses, calls for the necessity of proving beyond doubt that they are the same seized objects. This function is performed by the "chain of custody" requirement as defined in Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002, which requirement is necessary to erase all doubts as to the identity of the seized drugs by establishing its movement from the accused, to the police, to the forensic chemist, and finally to the court.
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> x x x x
>
> It bears recalling that while the parties stipulated on the existence of the sachets, they did not stipulate with respect to their "source."
>
> *People v. Sanchez* teaches that the testimony of the forensic chemist which is stipulated upon merely covers the handling of the specimen at the forensic laboratory and the result of the examination, but not the manner the specimen was handled before it came to the possession of the forensic chemist and after it left his possession.
>
> While a perfect chain of custody is almost always impossible to achieve, an unbroken chain becomes indispensable and essential in the prosecution of drug cases owing to its susceptibility to alteration, tampering, contamination and even substitution and exchange. Hence, every link must be accounted for.

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[43] Records, p. 60.
[44] Supra note 37, at 639.

> In fine, the prosecution failed to account for every link of the chain starting from its turn over by Janet to the investigator, and from the latter to the chemist.
>
> As for the presumption of regularity in the performance of official duty relied upon by the courts a quo, the same cannot by itself overcome the presumption of innocence nor constitute proof of guilt beyond reasonable doubt.[45] (citations omitted)

In *People v. Librea*,[46] the Court acquitted the accused for the reason that the circumstances of how the person who delivered the specimen for laboratory testing came into possession of the specimen remained unexplained.

The CA, thus, gravely erred in ruling that the integrity and evidentiary value of the confiscated prohibited drug were properly preserved.[47] On the contrary, the prosecution failed to provide each and every link in the chain of custody. This runs contrary to the rule that the *corpus delicti* should be identified with unwavering exactitude.[48]

It is worthy to note, as a final consideration, that the trial court acquitted appellant in Criminal Case No. 06-247287, for illegal possession of drugs, on this ground: the subject shabu was not identified in court. What the trial court failed to appreciate, however, is that while SPO1 Marinda identified a sachet of shabu in court, his testimony failed to establish that it was the same one submitted for laboratory testing. The trial court, in the case for illegal sale, should not have so easily trusted the alleged integrity of the *shabu* identified in court, when the evidence of the prosecution itself casts a doubt on the integrity of the specimen presented and identified in court.

WHEREFORE, the instant appeal is **GRANTED**. Accused-appellant Edgardo Adrid y Flores is hereby **ACQUITTED** of the crime of violating Sec. 5, Art. II of RA 9165 on account of reasonable doubt. The Director of the Bureau of Corrections is ordered to cause the immediate release of accused-appellant, unless he is being lawfully held for any other cause. Accordingly, the CA Decision dated February 24, 2011 in CA-G.R. CR-H.C. No. 03775 is hereby **REVERSED** and **SET ASIDE**.

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[45] G.R. No. 181831, March 29, 2010, 617 SCRA 52, 60-62.
[46] G.R. No. 179937, July 17, 2009, 593 SCRA 258, 262-263.
[47] *Rollo*, p. 14.
[48] *People v. Dela Cruz*, G.R. No. 181545, October 8, 2008, 568 SCRA 273, 282; citing *Zarraga v. People*, G.R. No. 162064, March 14, 2006, 484 SCRA 639.

No costs.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

ARTURO D. BRION
Associate Justice

ROBERTO A. ABAD
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice