

FIRST DIVISION

[G.R. No. 240431, July 07, 2020]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARLON BOB CARANIAGAN SANICO A.K.A. "MARLON BOB," ACCUSED-APPELLANT.

DECISION

PERALTA, C.J.:

This is to resolve the appeal of Marlon Bob Caraniagan Sanico of the Court of Appeals (*CA*) Decision^[1] dated March 23, 2018 which dismissed his appeal and affirmed the Decision^[2] dated December 29, 2016 of the Regional Trial Court (*RTC*), Branch 13, Davao City, convicting him of Violation of Section 5, Article II, Republic Act No. (*R.A.*) 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

The facts follow.

Around 8:30 in the morning of September 30, 2009, IO2 Janem Free Reyes of the Philippine Drug Enforcement Agency (*PDEA*), Region XI received an information from a confidential informant that a person named Marlon Bob was selling marijuana in Barangay Tibungco, Davao City.

Acting on the said information, IO2 Reyes formed a buy-bust operation team. A briefing was conducted at the office and IO1 Rommel Adrian dela Peña was assigned as the poseur-buyer and IO1 Julius Magdadaro as the immediate back-up. To complete the team, eight other members of the *PDEA*, Region XI were included. It was also agreed during the team briefing that IO1 Dela Peña would take off his bull cap as a sign that the transaction had been consummated. IO1 Dela Peña was then given one P100.00 bill and one P50.00 bill as marked money to be used in the operation. Thereafter, IO2 Reyes, being the team leader, prepared an Authority to Operate. Also, the buy-bust operation was recorded by Desk Officer Agent Fe Fuentes in the *PDEA* blotter book.

On the same day, around 12 noon, the team proceeded to the target area at Purok 12, Tibungco, Davao City.

The confidential informant and IO1 Dela Peña alighted first and walked towards the interior part of Purok 12 traversing a narrow footbridge atop a sea water as the house of appellant was built just above the said body of water. Appellant was already outside of his house when they reached the place. The confidential informant introduced IO1 Dela Peña to appellant, saying "*Mao ni akong amigo, sumer ni, mupalit ug dahon*" (This is my friend, he is a consumer, he will buy leaves). Appellant asked IO1 Dela Peña how much he wanted to buy and the latter replied P150.00 worth of marijuana. Appellant asked for the payment and IO1 Dela Peña handed the marked money to the former. When appellant received the money, he reached in his pocket and took out three (3) small items rolled in newspaper and told them that they were marijuana leaves. Immediately, thereafter, IO1 Dela Peña removed his bull cap as a signal that the transaction has been consummated.

Sensing that it was a buy-bust operation, appellant jumped into a body of water and fled, with the buy-bust team pursuing, but to no avail.

While still on the target area, IO2 Reyes ordered IO1 Dela Peña and IO1 Magdadaro to place their initials "RAQPD" and "JAM", respectively, on the confiscated items. IO1 Dela Peña placed the confiscated items inside an evidence pouch and sealed it with masking tape. The same officers placed their initials on the masking tape. Before returning to the PDEA office, the team proceeded to the barangay hall of Tibungco to report that there was a buy-bust operation and that appellant was able to evade arrest.

When the team arrived at the office, IO1 Dela Peña showed the confiscated items to Agent Fuentes, the desk officer, and the latter recorded the same on their blotter book. IO1 Dela Peña remained in custody of the confiscated items.

Around 1:00 p.m. of the following day, an inventory of the items was made in the presence of witnesses Noel Polito from the Department of Justice (DOJ), Mariz Robilla from the media, and Divinagracia Morales, an elected barangay official.

Therafter, a request for laboratory examination was prepared and IO1 Dela Peña brought the request along with the specimens to the PNP Crime Laboratory in Ecoland, Davao City for quantitative and qualitative examinations. The said items were received by SPO2 Arnel Betita who weighed the same items and handed them over to PSI April dela Rosa Fabian who conducted the laboratory examination that yielded a positive result for marijuana.

The case was archived due to the fact that appellant was at-large, however, the case was eventually revived after two years when appellant was arrested in another buy-bust operation. Hence, appellant was charged with violation of Section 5, Article II of R.A. 9165 in an Information that reads as follows:

That on or about September 30, 2009, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the abovementioned accused, without being authorized by law, willfully, unlawfully and consciously sold, delivered and transferred to the poseur-buyer, IO1 Rommel Adrian Q. dela Peña, three rolled newspapers marked as A-1 to A-3 each containing dried marijuana fruiting tops weighing a total of 2.9 grams which is a dangerous drug.

CONTRARY TO LAW.^[3]

Appellant was arraigned on June 2, 2012 and pleaded not guilty.

A motion for leave of court to amend the criminal information was filed on February 13, 2015 because the name of the poseur-buyer stated in the information was IO1 Julius Magdadaro instead of IO1 Rommel Adrian dela Peña which the RTC granted.

After the prosecution rested its case, appellant, through his counsel manifested that he was waiving his right to present evidence, thus, the case was submitted for decision.

On December 29, 2016, the RTC rendered its Decision convicting appellant with the crime charged in the Information. The dispositive portion of the said Decision reads as follows:

WHEREFORE, as the prosecution was able to prove the guilt of the accused beyond reasonable doubt, judgment is hereby rendered CONVICTING accused MARLON BOB CARANIAGAN SANICO, alias "Marlon Bob" for the crime of violation of Section 5, Article II of RA 9165. He is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

The accused is entitled to be credited in his favor the preventive imprisonment that he has undergone pursuant to Article 29 of the Revised Penal Code as amended by Republic Act No. 10592.

SO ORDERED.

The CA denied the appeal and affirmed the decision of the RTC, thus:

WHEREFORE, the instant Appeal is DENIED. The Decision of the Regional Trial Court, Branch 13, Davao City, dated December 29, 2016, is hereby AFFIRMED.

SO ORDERED.^[5]

The CA held that the prosecution was able to sufficiently establish the chain of custody of the confiscated item. It also ruled that there was no ill motive on the part of the buy-bust team and that the defense of appellant that he was the victim of a frame-up did not deserve merit.

Hence, this appeal.

Appellant, in his Supplemental Brief, raises the following grounds:

I.

THE PROCEDURE UNDER SECTION 21 OF REPUBLIC ACT NO. 9165 WAS NOT COMPLIED WITH;

II.

THE INTEGRITY AND EVIDENTIARY VALUE OF THE *CORPUS DELICTI* WERE NOT PRESERVED; AND

III.

THE NON-COMPLIANCE OF THE PROCEDURE CANNOT BE EXCUSED UNDER THE SAVING CLAUSE OF SECTION 21 OF THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9165.^[6]

The appeal is meritorious.

Under Article II, Section 5 of R. A. 9165 or illegal sale of prohibited drugs, in order to be convicted of the said violation, the following must concur:

(1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.^[7]

In illegal sale of dangerous drugs, it is necessary that the sale transaction actually happened and that "the [procured] object is properly presented as evidence in court and is shown to be the same drugs seized from the accused."^[8]

It cannot be over-emphasized that in cases involving violations of the Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.^[9] Additionally, in weighing the testimonies of the prosecution's witnesses *vis-a-vis* that of the defense, it is a well-settled rule that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.^[10]

Also, in illegal sale, the illicit drugs confiscated from the accused comprise the *corpus delicti* of the charges.^[11] It is of paramount importance that the identity of the dangerous drug be established beyond reasonable doubt; and that it must be proven with certitude that the

substance bought during the buy-bust operation is exactly the same substance offered in evidence before the court. In fine, the illegal drug must be produced before the court as exhibit and that which was exhibited must be the very same substance recovered from the suspect.^[12] Thus, the chain of custody carries out this purpose "as it ensures that unnecessary doubts concerning the identity of the evidence are removed."^[13]

Appellant claims that the PDEA agents failed to comply with the requirements set by the law because they did not conduct the inventory and have photographs taken immediately after the seizure and confiscation. According to appellant, the agents also failed to physically do the inventory and take photographs in the presence of the appellant, or his representative or counsel, a representative from the media, and the DOJ, and any elected public official.

To ensure an unbroken chain of custody, Section 21(1) of R.A. 9165 specifies:

(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.

Supplementing the above-quoted provision, Section 21(a) of the IRR of R.A. 9165 provides:

(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 noncompliance 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[.]

The records show that the above provisions were indeed, not complied with by the arresting officers. IO1 Dela Peña testified as to the circumstances why the arresting officers failed to immediately do the inventory at the scene of the buy-bust operation, thus:

PROS. MABALE:

Q: And then, what happened next after she turned them over back to you?

A: We were not able to conduct the inventory that day so we conducted the inventory the next day, ma'am.

Q: Why were you not able to conduct inventory on that day?

A: We have not secured the necessary witnesses that should be present during the inventory, ma'am.

Q: You have not secured?

A: Yes, ma'am.

Q: Why was it that you were not able to secure witnesses?

A: We could not contact the witnesses that should be present during the inventory that time so we conducted the inventory the next day, ma'am.^[14]

The Court does not see sight of the fact that under various field conditions, compliance with the requirements under Section 21 of R.A. 9165 may not always be possible.^[15] In fact, the IRR of R.A. 9165 offers a saving clause allowing leniency whenever justifiable grounds exist which warrant deviation from established protocol so long as the integrity and evidentiary value of the seized items are properly preserved.^[16]

However, from the above-testimony, the explanation provided by the arresting officer falls short of the standard that would consider the action of the police officers as substantial compliance with the provisions of Section 21. To merely state that the arresting officers were not able to contact the required witnesses during the immediate inventory of the confiscated item at the place where the incident happened, thus, leading them to postpone the inventory, is far from the justifiable ground contemplated by law and jurisprudence. In *People v. Vicente Sipin y De Castro*,^[17] this Court provided instances where the provisions of Section 21 may be relaxed, thus:

The prosecution never alleged and proved that the presence of the required witnesses was not obtained for any of the following reasons, such as: (1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and elected public official within the period required under Article 125 of the Revised Penal Code could prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.

Certainly, the prosecution bears the burden of proof to show valid cause for non-compliance with the procedure laid down in Section 21 of R.A. 9165, as amended.^[18] It has the positive duty to demonstrate observance thereto in such a way that, during the proceedings before the trial court, it must initiate in acknowledging and justifying any perceived deviations from the requirements of the law.^[19] Its failure to follow the mandated procedure must be adequately explained and must be proven as a fact in accordance with the rules on evidence. The rules require that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit, coupled with a statement on the steps they took to preserve the integrity of the seized item.^[20] A stricter adherence to Section 21 is required where the quantity of illegal drugs seized is minuscule since it is highly susceptible to planting, tampering, or alteration.^[21]

This Court, therefore, finds it apt to acquit the appellant.

WHEREFORE, premises considered, the Decision dated March 23, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 01654-MIN dismissing appellant's appeal and affirming the Decision dated December 29, 2016 of the Regional Trial Court, Branch 13, Davao City, is **REVERSED AND SET ASIDE**. Appellant Marlon Bob Caraniagan Sanico a.k.a. "Marlon Bob" is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is confined for any other lawful cause. Let entry of final judgment be issued immediately.

Let a copy of this Decision be furnished to the Director of the Bureau of Corrections, New Bilibid Prison, Muntinlupa City, for immediate implementation. Said Director is **ORDERED** to **REPORT** to this Court within five (5) working days from receipt of this Decision the action he/she has taken.

SO ORDERED.

J. Reyes, Jr., Lazaro-Javier, and Lopez, JJ., concur.
Caguioa, J., See Concurring Opinion.

[1] Penned by Associate Justice Oscar V. Badelles, with Associate Justices Romulo V. Borja and Tita Marilyn Payoyo-Villordon concurring; *rollo*, pp. 3-10.

[2] Penned by Presiding Judge Rowena Apao-Adlawan; CA *rollo*, pp. 43-51.

[3] CA *rollo*, p. 43.

[4] *Id.* at 51.

[5] *Rollo*, p. 10.

[6] *Id.* at 34.

[7] *People v. Ismael*, 806 Phil. 21, 29 (2017).

[8] *Id.*

[9] *People v. Steve, et al.*, 740 Phil. 727, 737 (2014).

[10] *People v. Alacdis, et al.*, 811 Phil. 219, 232 (2017), citing *People v. Asislo*, 778 Phil. 509 (2016).

[11] *Id.*

[12] *People v. Mirondo*, 771 Phil. 345, 357 (2015).

[13] See *People v. Ismael*, *supra* note 7.

[14] TSN, May 25, 2015, p. 13. (Emphases ours)

[15] *People v. Ryan Maralit*, G.R. No. 232381, August 1, 2018, citing *People v. Sanchez*, 590 Phil. 214, 234 (2008).

[16] See Section 21 (a), Article II, of the IRR of R.A. 9165.

[17] G.R. No. 224290, June 11, 2018.

[18] See *People v. Macapundag*, 807 Phil. 234 (2017).

[19] See *People v. Miranda*, G.R. No. 229671, January 31, 2018; *People v. Paz*, G.R. No. 229512, January 31, 2018; *People v. Mamangon*, G.R. No. 229102, January 29, 2018; and *People v. Jugo*, G.R. No. 231792, January 29, 2018.

[20] *People v. Saragena*, 817 Phil. 117 (2017). (Emphasis supplied)

[21]

See *People v. Abelarde*, G.R. No. 215713, January 22, 2018; *People v. Macud*, G.R. No. 219175, December 14, 2017; *People v. Arposeple*, G.R. No. 205787, November 22, 2017; *Aparente v. People*, 818 Phil. 935 (2017); *People v. Cabellon*, 818 Phil. 561 (2017); *People v. Saragena*, *supra* note 20; *People v. Saunar*, 816 Phil. 482 (2017); *People v. Sagana*, 815 Phil. 356 (2017); *People v. Segundo*, 814 Phil. 697 (2017); and *People v. Jaafar*, 803 Phil. 582 (2017).

CONCURRING OPINION

CAGUIOA, J.:

I concur. The *ponencia* is correct in granting the petition and acquitting the accused-appellant on the ground of reasonable doubt.

Jurisprudence is well-settled that in cases involving dangerous drugs, the drug itself constitutes the *corpus delicti* of the offense.^[1] *Corpus delicti* is the body or substance of the crime, and establishes the fact that a crime has been actually committed.^[2] In turn, the manner through which the identity of the *corpus delicti* is preserved with moral certainty is through strict compliance with Section 21, Article II of Republic Act No. (RA) 9165. Thus, the existence of dangerous drugs is a condition *sine qua non* for conviction for the illegal sale and possession of dangerous drugs.^[3] In particular with cases of alleged violation of Section 5, RA 9165 (Illegal Sale of Dangerous Drugs), what is material is the proof that the transaction or sale transpired, coupled with the presentation in court of the *corpus delicti*.^[4] Section 21 of RA 9165 states:

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 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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours[.] (Emphasis and underscoring supplied)

Furthermore, Section 21 (a), Article II of the Implementing Rules and Regulations of RA 9165 (IRR) filled in the details as to where the physical inventory and photographing of the seized items should be done: *i.e.*, at the place of seizure, or at the nearest police station, or at the nearest office of the apprehending officer/team, thus:

SECTION 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(a) The apprehending officer/team having initial custody and control of the drugs shall, **immediately after seizure and confiscation**, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: **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 noncompliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]** (Emphasis and underscoring supplied)

Section 21 of RA 9165 and its IRR plainly require the apprehending team to conduct a physical inventory of the seized items and photograph the same **immediately after seizure and confiscation** in the presence of the accused, with: (1) an elected public official, (2) a representative of the Department of Justice (DOJ), and (3) a representative of the media, all of whom shall be required to sign the copies of the inventory and be given a copy thereof.

The phrase "immediately after seizure and confiscation" found in both RA 9165 and its IRR means that the physical inventory and photographing of the drugs are to be made immediately after, or at the place of, apprehension. And only if this is not practicable can the inventory and photographing then be done as soon as the apprehending team reaches the nearest police station or the nearest office. There can be no other meaning to the plain import of this requirement. **By the same token, this also means that the required witnesses should already be physically present at the time or near the place of apprehension - a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity.** Simply put, the apprehending team has enough time and opportunity to bring with them said witnesses.

To be sure, this has been the Court's interpretation in a number of cases.^[5] For warrantless seizures, the arresting officers may accomplish the inventory and take photographs at the nearest police station, or at the nearest office of the apprehending team, but only when the prevailing circumstances render it impracticable to do so at the place of arrest.^[6]

In other words, while the physical inventory and photographing are allowed to be done "at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures," this does not dispense with the requirement of having all the required witnesses to be physically present at the time or near the place of apprehension. The reason is simple. It is **at the time and place of arrest or at the time and**

place of the drugs' "seizure and confiscation" - that the presence of the three witnesses is most needed, as it is their presence at the time and place of seizure and confiscation that would insulate against the police practice of planting evidence.

The presence of the witnesses at the time and place of arrest and seizure is required because while buy-bust operations deserve judicial sanction if carried out with due regard for constitutional and legal safeguards, it is well to recall that by the very nature of anti-narcotics operations, the need for entrapment procedures, the ease with which sticks of marijuana or grams of heroin can be planted in pockets of or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great.^[7]

Borrowing the language of the Court in *People v. Mendoza*,^[8] without the **insulating presence** of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drugs, the evils of switching, "planting" or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA 6425 (Dangerous Drugs Act of 1972) again rear their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the subject sachets that were evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.^[9]

Thus, it is compliance with this most fundamental requirement - the presence of the "insulating" witnesses in the inventory conducted immediately after seizure and confiscation - that the pernicious practice of planting of evidence is greatly minimized if not foreclosed altogether. Stated otherwise, this is the first and foremost requirement provided by Section 21 to ensure the preservation of the "integrity and evidentiary value of the seized drugs" in a buy-bust situation, which, as already explained, is by its nature, a planned operation.

To reiterate, the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with **at the place and time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs "immediately after seizure and confiscation."**

Thus, the practice of police operatives of not bringing to the intended place of arrest the representative of the DOJ, the media representative, and the elected public official, when they could easily do so - and "calling them in" to the police station to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished - does **not** achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.

In the present case, while the police officers conducted an inventory in the presence of the three required witnesses, they only did so a day after the seizure of the confiscated items. When asked to explain why, the police officers merely stated that they were unable to secure the attendance of the required witnesses on the same day - hence, they conducted the inventory the day after.^[10] Without question, this does not comply with the requirement of the inventory being conducted "immediately after seizure and confiscation" **and** in the presence of the required witnesses. During this considerable lapse of time, the drugs could already have been planted - and the marking, inventory, and transfer from the police officers to the crime laboratory only proves the chain of custody of **planted** drugs.

Clearly, therefore, it is the immediate marking, inventory, and photographing of the seized items, as well as the insulating presence of the witnesses in this process, that serve to prevent switching, planting, or contaminating the seized evidence.^[11] The strict observance of these requirements is further underscored in instances when drugs are seized as a result of a planned operation, such as the implementation of a search warrant or the conduct of a buy-bust operation like in the present case. There being forethought and advance preparation involved, there is little margin for error on the arresting officers' compliance with Section 21.

Based on these premises, I vote to **GRANT** the Petition.

[1] *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131, 142.

[2] *People v. Calates*, G.R. No. 214759, April 4, 2018, 860 SCRA 460, 469.

[3] *People v. Magat*, 588 Phil. 395, 402 (2008).

[4] *People v. Dumangay*, 587 Phil. 730, 739 (2008).

[5] *People v. Fatallo*, G.R. No. 218805, November 7, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64858>>; *People v. Callejo*, G.R. No. 227427, June 6, 2018, 865 SCRA 405.

[6] Id.

[7] *People v. Santos, Jr.*, 562 Phil. 458, 471 (2007).

[8] 736 Phil. 749 (2014).

[9] Id. at 764.

[10] *Ponencia*, p. 6.

[11] *People v. Mendoza*, supra note 8 at 761.
