Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No. 173474**
	Present:
- *versus* -	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR., and REYES, *JJ.*
REYNALDO BELOCURA *y* PEREZ, Accused-Appellant.	Promulgated: 29 AUG 2012

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DECISION

BERSAMIN, *J.*:

The credibility of the evidence of the *corpus delicti* in a prosecution for illegal possession of *marijuana* under Republic Act No. 6425, as amended, depends on the integrity of the chain of custody of the *marijuana* from the time of its seizure until the time of its presentation as evidence in court. Short of that, the accused is entitled to an acquittal because the State fails to establish the guilt of the accused beyond reasonable doubt.

The Case

Reynaldo Belocura *y* Perez, a police officer charged with illegal possession of 1,789.823 grams of *marijuana* in violation of Republic Act No. 6425 (*Dangerous Drugs Act of 1972*), as amended by Republic Act No. 7659, was found guilty of the crime charged on April 22, 2003 by the

Regional Trial Court (RTC) in Manila, and sentenced to suffer *reclusion perpetua* and to pay a fine of ₱500,000.00.[1]

On appeal, the Court of Appeals (CA) affirmed the conviction on January 23, 2006.[2] Hence, this final appeal for his acquittal.

Antecedents

Belocura was charged on April 13, 1999 by the Office of the City Prosecutor of Manila with a violation of Section 8 of Republic Act No. 6425, as amended by Republic Act No. 7659, in the Manila RTC through the information:

> That on or about March 22, 1999, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) plastic bag colored red and white, with label "SHIN TON YON", containing the following:
>
> One (1) newspaper leaf used to wrap one (1) brick of dried marijuana fruiting tops weighing 830.532 grams;
>
> One (1) newspaper leaf used to wrap one (1) brick of dried marijuana fruiting tops weighing 959.291 grams.
>
> With a total weight of 1,789.823 grams, a prohibited drug.
>
> Contrary to law.[3]

After Belocura pleaded *not guilty*,[4] the State presented three witnesses, namely: Insp. Arlene Valdez Coronel, Chief Insp. Ferdinand Ortales Divina, and SPO1 Gregorio P. Rojas. On the other hand, the Defense presented Belocura as its sole witness.

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1 Records, pp. 210-215.

2 CA *Rollo*, pp. 132-140; penned by Associate Justice Aurora Santiago-Lagman (retired), with Associate Justice Ruben T. Reyes (later Presiding Justice and a Member of the Court, since retired) and Associate Justice Rebecca Guia-Salvador concurring.

3 Records, p. 1.

4 Id. at 15.

I
The State's Evidence

On March 22, 1999, at 11 o'clock in the morning, Chief Insp. Divina was in his office in the headquarters of the Western Police District (WPD) on United Nations Avenue in Manila when he received a call from a male person who refused to identify himself for fear of reprisal. The caller tipped him off about a robbery to be staged along Lopez Street, Tondo, Manila. After relaying the tip to his superior officer, he was immediately ordered to form a team composed of operatives of the District Intelligence Group and to coordinate with the Special Weapons and Attack Team (SWAT) and the Mobile Patrol of the WPD.

After a briefing, Chief Insp. Divina and the other operatives proceeded to Lopez Street, reaching the site before 1:00 pm. Chief Insp. Divina and PO2 Eraldo Santos positioned themselves along Vitas Street. At around 2:00 pm, Chief Insp. Divina spotted an owner-type jeep bearing a spurious government plate (SBM-510) cruising along Vitas Street and told the rest of the team about it. The numbers of the car plate were painted white. The driver was later identified as Belocura. Chief Insp. Divina signaled for Belocura to stop for verification but the latter ignored the signal and sped off towards Balut, Tondo. The team pursued Belocura's jeep until they blocked its path with their Tamaraw FX vehicle, forcing Belocura to stop. At this point, Chief Insp. Divina and the rest of the team approached the jeep and introduced themselves to Belocura as policemen. Chief Insp. Divina queried Belocura on the government plate. SPO1 Rojas confiscated Belocura's Berreta 9 mm. pistol (Serial Number M13086Z) that was tucked in his waist and its fully loaded magazine when he could not produce the appropriate documents for the pistol and the government plate. They arrested him.

PO2 Santos searched Belocura's jeep, and recovered a red plastic bag under the driver's seat. Chief Insp. Divina directed PO2 Santos to inspect the

contents of the red plastic bag, which turned out to be two bricks of *marijuana* wrapped in newspaper.

Afterwards, the team returned with Belocura to the WPD Headquarters on board the Tamaraw FX. The team turned over the jeep and the red plastic bag with its contents to the General Assignment Section for proper disposition.[5]

Chief Insp. Divina said that the caller did not mention anything about any vehicle; that he and his men were in civilian clothes at the time; that it was PO2 Santos who recovered the red plastic bag containing the *marijuana* bricks; and that SPO1 Rojas examined the contents of the bag in his presence.[6]

SPO1 Rojas confirmed his part in the operation.[7] He conceded that he was not present when the red plastic bag containing the bricks of *marijuana* was seized, and saw the *marijuana* bricks for the first time only at the police station.[8]

Forensic Chemist Insp. Coronel attested that her office received from the General Assignment Section of the WPD one red plastic bag labeled "SHIN TON YON" containing two bricks of dried suspected *marijuana* fruiting tops individually wrapped in newspaper at about 12:30 pm of March 23, 1999. The first brick bore the marking "RB-1" and weighed 830.532 grams while the other bore the marking "RB-2" and weighed 959.291 grams, for a total weight of 1,789.823 grams. She conducted a chemical examination of the *marijuana* bricks pursuant to the request for laboratory examination from Chief Insp. Nelson Yabut of the WPD; and concluded as

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5 TSN dated April 4, 2000, pp. 3-10.
6 TSN dated April 10, 2000, pp. 5-14.
7 Records, p. 212.
8 Id.

the result of three qualitative examinations that the submitted specimen tested positive for *marijuana*, a prohibited drug.[9]

II
Evidence of the Defense

Belocura denied the charge. His version, which differed from that of the Prosecution, was as follows.

On March 22, 1999, Belocura was a police officer assigned in Police Station 6 of the WPD with a tour of duty from 3:00 pm to 11:00 pm. At 2:00 pm of that day, he was on his way to work on board his owner-type jeep when about thirty police officers blocked his path. He introduced himself to them as a police officer, but they ignored him. Instead, they disarmed and handcuffed him, and confiscated the memorandum receipt covering his firearm, his money and his police ID card. He recognized some of his arrestors as former members of the CIS. They forced him into their jeep, and brought him to the WPD headquarters, where they locked him up in a room that looked like a *bodega.* They subjected him to interrogation on his alleged involvement in a robbery hold-up. They informed him of the drug-related charge to be filed against him only three days later.

Belocura denied owning or possessing the bricks of *marijuana*, saying that he saw the bricks of *marijuana* for the first time only in court. He insisted that it was physically impossible for the bricks of *marijuana* to be found under the driver's seat of his jeep on account of the clearance from the flooring being only about three inches. At the time of his arrest, he was in Type-B uniform (*i.e.*, blue pants with white side piping and blue T-shirt) because he was reporting to work that afternoon.

Belocura said that his arrest was effected possibly because he had incurred the ire of a superior; that it was not unusual for a policeman like

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[9] Id. at 210-211.

him to incur the ire of a superior officer or a fellow policeman; that he had arrested a suspect for drug pushing and had detained him in Police Precinct 2, but the suspect turned out to be the nephew of Captain Sukila of Precinct 2 who admitted to him that Captain Sukila owned the drugs; that on the day following the arrest of the suspect, Captain Sukila called Belocura to request the release of the suspect (*ina-arbor ang huli ko*); that he told Captain Sukila that they should meet the next day so that he could turn over the suspect; and that on the next day, he was surprised to learn that the suspect had already been released.[10]

Belocura did not personally know Chief Insp. Divina prior to his arrest,[11] or the other arresting policemen. He mentioned that his owner-type jeep had been assembled in 1995, and that he had attached the plate number assigned to his old vehicle pending the registration of the jeep despite knowing that doing so was a violation of law; and that the incident involving the arrest of the nephew of Captain Sukila was the only reason he could think of why charges were filed against him.[12]

On re-direct examination, Belocura replied that he did not see the bricks of *marijuana* whether at the time of his arrest, or at the police precinct, or during the inquest proceedings. On re-cross, he clarified that while the driver's seat were fixed to the jeep, the bricks of *marijuana* could nevertheless be placed under the driver's seat only if pressed hard enough, but in that case the wrappings would get torn because the wirings of the car underneath the seat were exposed. He recalled that the wrappings of the bricks of *marijuana* were intact.[13]

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10 Id. at 212-213.
11 Id.
12 Id.
13 Id.

On April 22, 2003, the RTC convicted Belocura of the crime charged and sentenced him to suffer *reclusion perpetua* and to pay the fine of ₱500,000.00.[14]

As already stated, the CA affirmed the conviction.[15]

Issues

Belocura now submits that: [16]

I.
THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED NOTWITHSTANDING THE PHYSICIAL IMPOSSIBILITY FOR THE DRIED BRICKS OF MARIJUANA PLACED UNDER THE DRIVER'S SEAT *(sic).*

II.
THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED BASED ON THE INCONSISTENT AND CONTRADICTORY STATEMENTS OF THE PROSECUTION WITNESS.

III.
THE TRIAL COURT ERRED IN ADMITTING IN EVIDENCE THE MARIJUANA DESPITE THE ILLEGALITY OF ITS SEIZURE DUE TO THE ABSENSE *(sic)* OF A VALID SEARCH WARRANT.

IV.
THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

Belocura argues that the Prosecution did not establish his guilt for the crime charged beyond reasonable doubt; that his warrantless arrest was unlawful considering that his only violation was only a breach of traffic rules and regulations involving the illegal use of a government plate on his newly-assembled jeep; that the warrantless search of his jeep was contrary to law for violating his right against illegal search and seizure protected under

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14 Id. at 215.
15 CA *Rollo*, pp. 132-140 (the appeal was originally made directly to the Court, but the Court referred the appeal to the CA for intermediate review).
16 *Rollo*, pp. 40-59.

Section 17, Article III (*Bill of Rights*) of the 1987 Constitution;[17] and that the bricks of *marijuana* supposedly seized from him, being the fruit of a poisonous tree, were inadmissible against him.

The Office of the Solicitor General (OSG) counters that Belocura's arrest and the ensuing search of the jeep were valid, the search being incidental to a valid, albeit warrantless, arrest; that the arresting policemen had a reasonable ground to effect his warrantless arrest; that it became their duty following the lawful arrest to conduct the warrantless search not only of the person of Belocura as the arrestee but also of the areas within his reach, which then resulted in the recovery of the dried bricks of *marijuana* from under the driver's seat; and that any irregularity attendant to the arrest was cured by Belocura's failure to object to the validity of his arrest before entering his plea and by his submission to the jurisdiction of the RTC when he entered his plea and participated in the trial.[18]

Ruling

After a meticulous examination of the records, the Court concludes that a reversal of the conviction is justified and called for.

No arrest, search and seizure can be made without a valid warrant issued by a competent judicial authority. So sacred are the right of personal security and privacy and the right from unreasonable searches and seizures that no less than the Constitution ordains in Section 2 of its Article III, *viz*:

> Section 2. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose, shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and

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17 Id. at 56.
18 Id. at 102-111.

> particularly describing the place to be searched, and the persons or things to be seized.

The consequence of a violation of the guarantees against a violation of personal security and privacy and against unreasonable searches and seizures is the exclusion of the evidence thereby obtained. This rule of exclusion is set down in Section 3(2), Article III of the Constitution, to wit:

> Section 3. xxx
>
> (2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

Even so, the right against warrantless arrest, and the right against warrantless search and seizure are not absolute. There are circumstances in which the arrest, or search and seizure, although warrantless, are nonetheless valid or reasonable. Among the circumstances are those mentioned in Section 5, Rule 113 of the *Rules of Court*, which lists down when a warrantless arrest may be lawfully made by a peace officer or a private person, namely:

> (*a*) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
>
> (*b*) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and
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> (*c*) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

On the other hand, the constitutional proscription against warrantless searches and seizures admits of the following exceptions, namely: (*a*) warrantless search incidental to a lawful arrest recognized under Section 13,

Rule 126 of the *Rules of Court*;[19] (*b*) seizure of evidence under plain view; (*c*) search of a moving vehicle; (*d*) consented warrantless search; (*e*) customs search; (*f*) stop-and-frisk situations (Terry search); and (*g*) exigent and emergency circumstances.[20] In these exceptional situations, the necessity for a search warrant is dispensed with.

Belocura argues that his arrest and the ensuing search of his vehicle and recovery of the incriminating bricks of *marijuana* were in violation of his aforementioned rights under the Constitution because he was then violating only a simple traffic rule on the illegal use of a government plate. He claims that the arresting policemen had no probable cause to search his vehicle for anything.

The argument of Belocura does not persuade.

Belocura was caught *in flagrante delicto* violating Section 31 of Republic Act No. 4139 (*The Land Transportation and Traffic Code*).[21] *In flagrante delicto* means *in the very act of committing the crime*. To be caught *in flagrante delicto* necessarily implies the positive identification of the culprit by an eyewitness or eyewitnesses. Such identification is a direct evidence of culpability, because it "proves the fact in dispute without the aid of any inference or presumption."[22] Even by his own admission, he was actually committing a crime in the presence or within the view of the arresting policemen. Such manner by which Belocura was apprehended fell under the first category in Section 5, Rule 113 of the *Rules of Court*. The arrest was valid, therefore, and the arresting policemen thereby became

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[19] Rule 126, *Rules of Court*, provides:
Section 13. *Search incident to lawful arrest.* – A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant. (12a)

[20] *Caballes v. Court of Appeals*, G.R. No. 136292, January 15, 2002, 373 SCRA 221.

[21] Section 31. *Imitation and false representations.* - No person shall make or use attempt to make or use a driver's license, badge, certificate of registration, number plate, tag, or permit in imitation or similitude of those issued under this Act, or intended to be used as or for a legal license, badge, certificate, plate, tag or permit, or with intent to sell or otherwise dispose of the same to another. No person shall falsely or fraudulently represent as valid and in force any driver's license, badge, certificate, plate, tag or permit issued under this Act which is delinquent or which has been revoked or suspended.

[22] *Go v. Leyte II Electric Cooperative, Inc.*, G.R. No. 176909, February 18, 2008, 546 SCRA 187, 195.

cloaked with the authority to validly search his person and effects for weapons or any other article he might use in the commission of the crime or was the fruit of the crime or might be used as evidence in the trial of the case, and to seize from him and the area within his reach or under his control, like the jeep, such weapon or other article. The evident purpose of the incidental search was to protect the arresting policemen from being harmed by him with the use of a concealed weapon. Accordingly, the warrantless character of the arrest could not by itself be the basis of his acquittal.[23]

In convicting Belocura as charged, the RTC relied on the testimonies of Chief Insp. Divina and SPO1 Rojas to establish the fact of possession of the *marijuana* bricks. An evaluation of the totality of the evidence on record indicates, however, that the *corpus delicti* of the crime charged was not established beyond reasonable doubt.

The elements of illegal possession of *marijuana* under Republic Act No. 6425, as amended, are that: (*a*) the accused is in possession of an item or object that is identified to be *marijuana*, a prohibited drug; (*b*) such possession is not authorized by law; and (*c*) the accused freely and consciously possessed the said drug.[24] What must be proved beyond reasonable doubt is the fact of possession of the prohibited drug itself. This may be done by presenting the police officer who actually recovered the prohibited drugs as a witness, being the person who has the direct knowledge of the possession.

Chief Insp. Divina who headed the team of policemen disclosed that it was PO2 Santos, a member of the team, who had discovered and had actually recovered the red plastic bag containing the bricks of *marijuana* from the jeep. Excerpts of Chief Insp. Divina's relevant declarations follow:

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[23] *Valdez v. People*, G.R. No. 170180, November 23, 2007, 538 SCRA 611.
[24] *Manalili v. Court of Appeals*, G.R. No. 113447, October 9, 1997, 280 SCRA 400.

ATTY LEE:
q Mr. Witness, it was SPO1 Rojas who examined the contents of the plastic bag. That is correct?

a I had testified that it was SPO1 Rojas who examined the contents.

q Okay, it was Mr. Rojas who retrieved the plastic bag? Is that correct?

a No sir, It was not SPO1 Rojas.

q It was not you who retrieved that plastic bag from the jeep?

a No, Sir. I was not the one.

q It was Dela Cruz?

a No, Sir.

q Who retrieved the plastic bag from the jeep?

WITNESS:
A It was PO2 Reynaldo Santos, Sir.

ATTY LEE :
q It was Santos who brought the plastic bag to the headquarters. Is that correct?

A Yes, Sir.

q And you never had a chance to examine that plastic bag, the contents of that plastic bag is that correct?

a I had a chance to see it at the place where we had flagged down a vehicle.

q You saw only the plastic bag. Is that correct?

a No, Sir. When the bag was recovered from under the driver's seat and when it was opened, I had the chance to see it.

THE COURT:
q Including the contents?

WITNESS:
a Yes, your Honor.

ATTY LEE:
q It was not you who bring that bag to xxx

THE COURT:
Already answered.

ATTY LEE:
q And after that, you never had the chance to see that bag again. Is that correct?

a Not anymore Sir.[25]

The Prosecution also presented SPO1 Rojas, another member of the team, but he provided no direct evidence about the possession by Belocura of the confiscated *marijuana* bricks, and actually stated that he did not witness the recovery of the *marijuana* bricks from Belocura, *viz*:

PUB. PROS. TAN, JR:
q While you were taking the gun of this accused what were your other companion specifically Major Divina doing?

WITNESS:
a Since I was the first one who approached Reynaldo Belocura I was the one who took the gun from his waistline and I informed Major Divina that I already took the gun and place it inside the Tamaraw FX and when I left the members of the SWAT arrive at the scene and I don't know what transpired.

PUB. PROS. TAN, JR:
q And where was Major Divina then?

a Beside the owner type jeep, sir.

q You are referring to the owner type jeep of the accused?

a Yes, sir.

q Did you go back to the said jeep?

a I did not return there anymore sir because the members of the other group surrounded the place, sir.

q **Since you were then at that scene did you come to know if there is any other thing that was retrieved from the herein accused in the said vehicle**?[26]

xxx

WITNESS:
a Yes. When I was there according to them marijuana was taken from the owner type jeep.

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[25] TSN, April 10, 2000, pp. 13–15.
[26] TSN, October 3, 2000, pp. 9-10.

PUB. PROS. TAN, JR:
q Who said that?[27]

xxx

WITNESS:
a The member of the SWAT and other team, sir were there.

q And then what else happen after such recovery?

a Actually sir at the scene I did not see anything recovered but it was only in the office that I heard their conversation about it.

q What did you see or observe while in your office?

a He was investigated.

q Investigated for what?

a According to them the recovery of the plate number and the expired MR of the gun and the marijuana recovered.

PUB. PROS. TAN, JR:
q Before whom was he investigated?

WITNESS:
a General Assignment Section, sir.[28]

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On further examination, SPO1 Rojas reiterated that he did not actually witness the seizure of the *marijuana* bricks from Belocura's possession, to wit:

ATTY LEE:
q Mr. Witness, so you did not see the actual the alleged recovery of marijuana, is that correct?

WITNESS:
a Yes sir.

ATTY LEE:
q And you have never that marijuana?

WITNESS:
a Yes sir. But only in the office.

q What do you only took from the accused is a gun, is that correct?

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[27] Id. at 10.
[28] Id. at 11-12.

a Yes sir.

q So you cannot say positively that there was a marijuana recovered from the accused because you did not see?

a I just got the information from my co-police officer, sir.[29]

x x x

PUB. PROS TAN, JR:
q Were you able to see the marijuana in the police station?

WITNESS:
a Yes sir.

q You mean to say that was the first time that you saw the marijuana?

a Yes, sir.[30]

The Prosecution presented no other witnesses to establish the seizure of the *marijuana* bricks from Belocura.

Based on the foregoing, Chief Insp. Divina and SPO1 Rojas' declarations were insufficient to incriminate Belocura, much less to convict him. If neither of them was personally competent to be an eyewitness regarding the seizure of the *marijuana* bricks from Belocura, their testimonies could not be accorded probative value, considering that the *Rules of Court* requires that a witness could testify only to facts that he knew of his own knowledge, *that is*, only to those facts derived from his *own* perception.[31]

Indeed, only PO2 Santos could reliably establish Belocura's illegal possession of the *marijuana* bricks, if Chief Insp. Divina's account was to be believed. Surprisingly, the RTC did not give due and proper significance to the failure to present PO2 Santos as a witness against Belocura.

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29 Id. at 13-14.
30 Id. at 15.
31 Section 36, Rule 130, *Rules of Court*; *Philippine Free Press Inc., v. Court of Appeals*, G.R. No. 132864, October 24, 2005, 473 SCRA 639, 656.

Nonetheless, the OSG contends that the State had no need to present PO2 Santos because his testimony would only be corroborative; and that the testimonies of Chief Insp. Divina and SPO1 Rojas sufficed to establish Belocura's guilt beyond reasonable doubt.

The OSG's contention is grossly erroneous.

As the arresting officer who alone actually seized the *marijuana* bricks from Belocura's vehicle beyond the viewing distance of his fellow arresting officers, PO2 Santos was the Prosecution's only witness who could have reliably established the recovery from Belocura of the *marijuana* bricks contained in the red plastic bag labeled as "SHIN TON YON." Without PO2 Santos' testimony, Chief Insp. Divina's declaration of seeing PO2 Santos recover the red plastic bag from under the driver's seat of Belocura's jeep was worthless. The explanation why none of the other police officers could credibly attest to Belocura's possession of the *marijuana* bricks was that they were at the time supposedly performing different tasks during the operation. Under the circumstances, only PO2 Santos was competent to prove Belocura's possession.

Worse, the Prosecution failed to establish the identity of the prohibited drug that constituted the *corpus delicti* itself. The omission naturally raises grave doubt about any search being actually conducted and warrants the suspicion that the prohibited drugs were planted evidence.

In every criminal prosecution for possession of illegal drugs, the Prosecution must account for the custody of the incriminating evidence from the moment of seizure and confiscation until the moment it is offered in evidence. That account goes to the weight of evidence.[32] It is not enough that the evidence offered has probative value on the issues, for the evidence must

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[32] *People v. Pagaduan*, G.R. No. 179029, August 9, 2010, 627 SCRA 308, 323, citing Black's Law Dictionary, citing *Com. v White*, 353 Mass 409, 232 N.E. 2d 335.

also be sufficiently connected to and tied with the facts in issue. The evidence is not relevant merely because it is available but that it has an actual connection with the transaction involved and with the parties thereto. This is the reason why authentication and laying a foundation for the introduction of evidence are important.[33]

Yet, no such accounting was made herein, as the following excerpts from the testimony of Chief Insp. Divina bear out, to wit:

> PUB. PROS TAN, JR:
> q How about the plastic bag containing the suspected stuff, what did you do with the same? You did not know?
>
> WITNESS:
> a **I think it was turned over to the investigator of the General Assignment Section who made the proper disposition.**
>
> **q Who is the investigator again, Mr. witness?**
>
> **a I remember SPO4 Boy Guzman**
>
> q Did you know what SPO4 Boy Guzman did with the accused as well as the confiscated stuff?
>
> x x x
>
> WITNESS:
> **a The items upon turn over to the investigator on case were handed to the custodian with proper receipt and after those disposition, there were case filed against the subject.**
>
> PUB. PROS. TAN, JR:
> **q Were you able to know what did they do with the accused as well as the confiscated stuff if you know?**
>
> **a I remember appearing in the MTC court Br, 20, I saw the exhibits, firearm and plate number, two blocks of marijuana. I don't have any idea where did the investigator brought them or have done**.[34]
>
> x x x
>
> **q You never had a knowledge of what happened to that bag and the contents thereof?**
>
> **a I learned later that the items that were confiscated were turned over to the General Assignment Section which held the investigation.**

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[33] Id.

[34] TSN, April 4, 2000, pp. 11-12.

q So, it was not your group who conducted the examination and the alleged things that were recovered from the alleged accused?[35]

xxx

a No, Sir.

q How about the things that were allegedly recovered from the accused?

a I just said that it was the General Assignment Section who handled the investigation.[36]

The Prosecution thereby failed to establish the linkage between the bricks of *marijuana* supposedly seized by PO2 Santos from Belocura's jeep following his arrest and the bricks of *marijuana* that the Prosecution later presented as evidence in court. That linkage was not dispensable, because the failure to prove that the specimens of *marijuana* submitted to the forensic chemist for examination were the same *marijuana* allegedly seized from Belocura irreparably broke the chain of custody that linked the confiscated *marijuana* to the *marijuana* ultimately presented as evidence against Belocura during the trial. Proof beyond reasonable doubt demanded that unwavering exactitude must be observed in establishing the *corpus delicti* – the body of the crime whose core was the confiscated prohibited substances. Thus, every fact necessary to constitute the crime must be established.[37]

The chain-of-custody requirement ensures that all doubts concerning the identity of the evidence are removed.[38] The requirement has come to be associated with prosecutions for violations of Republic Act No. 9165

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35 TSN, April 10, 2000, p. 15.

36 Id.

37 *People v. Pagaduan*, *supra*, note 32 at 322.

38 *People v. Sanchez*, G.R. No. 175832, October 15, 2008, 569 SCRA 194, 212; *People v. Kimura*, G.R. No. 130805, April 27, 2004, 428 SCRA 51.

(*Comprehensive Drugs Act of 2002*),[39] by reason of Section 21[40] of Republic Act No. 9165 expressly regulating the actual custody and disposition of confiscated and surrendered dangerous drugs, controlled precursors, essential chemicals, instruments, paraphernalia, and laboratory equipment. Section 21(a) of the Implementing Rules and Regulations of Republic Act

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[39] The effectivity of the law is from July 4, 2002.

[40] 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 al 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 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 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;

(4) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of 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 DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: *Provided*, That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes; *Provided, further*, That a representative sample, duly weighed and recorded is retained;

(5) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDE, shall be submitted to the court having jurisdiction over the case. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;

(6) The alleged offender or his/her representative or counsel shall be allowed to personally observe al of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the pubic attorney's office to represent the former;

(7) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the OPDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same; and

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

No. 9165 issued by the Dangerous Drugs Board pursuant to its mandate under Section 94 of Republic Act No. 9165 reiterates the requirement, stating:

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>
> (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.**
>
> xxx

That this case was a prosecution brought under Republic Act No. 6425 (*Dangerous Drugs Act of 1972*), as amended by Republic Act No. 7659, did not matter. The chain-of-custody requirement applied under both laws by virtue of the universal need to competently and sufficiently establish the *corpus delicti*. It is basic under the *Rules of Court*, indeed, that evidence, to be relevant, must throw light upon, or have a logical relation to, the facts in issue to be established by one party or disproved by the other.[41] The test of relevancy is whether an item of evidence will have any value, as determined by logic and experience, in proving the proposition for which it is offered, or whether it would reasonably and actually tend to prove or disprove any matter of fact in issue, or corroborate other relevant evidence. The test is satisfied if there is some logical connection either directly or by inference between the fact offered and the fact to be proved.[42]

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41 Section 3 and Section 4, Rule 128, *Rules of Court*.

42 31A CJS, Evidence, §199.

The chain of custody is essential in establishing the link between the article confiscated from the accused to the evidence that is ultimately presented to the court for its appreciation. As the Court said in *Mallillin v. People*:[43]

> As a method 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. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person 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 in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.
>
> While testimony about a perfect chain is not always the standard because it is almost always impossible to obtain, an unbroken chain of custody becomes indispensable and essential when the item of real evidence is not distinctive and is not readily identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is susceptible to alteration, tampering, contamination and even substitution and exchange. In other words, the exhibit's level of susceptibility to fungibility, alteration or tampering—without regard to whether the same is advertent or otherwise not—dictates the level of strictness in the application of the chain of custody rule.[44]

The first link in the chain of custody started with the seizure from the jeep of Belocura of the red plastic bag said to contain the *marijuana* bricks. The first link was immediately missing because the Prosecution did not present PO2 Santos, the only person with direct knowledge of the seizure and confiscation of the *marijuana* bricks. Without his testimony, proof that the *marijuana* bricks were really taken from the jeep of Belocura did not exist. The second link was the turnover of the *marijuana* bricks by PO2 Santos to another officer back at the WPD Headquarters. As to this, Chief Insp. Divina stated that he learned following the seizure by PO2 Santos that the *marijuana* bricks were turned over to the General Assignment Section

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43 G.R. No. 172953, April 30, 2008, 553 SCRA 619.
44 Id. at 632-633.

for investigation. *That was all*. On the other hand, SPO1 Rojas' testimony contributed nothing to the establishment of the second link because he had immediately left after seizing the gun from Belocura. As for the subsequent links, the records[45] showed that the *marijuana* bricks were forwarded to the General Assignment Section on March 22, 1999, but the Prosecution did not prove the identities of the officer from the General Assignment Section who received the red plastic bag containing the *marijuana* bricks, and the officer from whom the receiving officer received the *marijuana* bricks. Although Chief Insp. Nelson Yabut prepared the request for laboratory examination of the *marijuana* bricks,[46] which were thereafter examined by Forensic Chemist Valdez, the records did not show if Chief Insp. Yabut was the officer who had received the *marijuana* bricks from the arresting team. The request for laboratory examination was dated March 23, 1999, or the day following Belocura's arrest and the seizure of the *marijuana* bricks from his jeep; however, the Prosecution did not identify the person from whom Chief Insp. Yabut had received the *marijuana* bricks.

Sadly, the Prosecution did not establish the links in the chain of custody. This meant that the *corpus delicti* was not credibly proved. This further meant that the seizure and confiscation of the *marijuana* bricks might easily be open to doubt and suspicion, and thus the incriminatory evidence would not stand judicial scrutiny.

Thirdly, Belocura's denial assumed strength in the face of the Prosecution's weak incriminating evidence. In that regard, Belocura denied possession of the *marijuana* bricks and knowledge of them as well, to wit:

> q Were you able to view the alleged marijuana that were confiscated from you?
>
> a: I saw it for the first time when it was presented in Court, Sir.

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[45] Joint Affidavit of Arrest executed on March 22, 1999 by Santos, Rojas and Divina, Records, p. 4; Booking Sheet & Arrest Report executed by SPO3 Guzman and signed by Belocura, Records, p. 5.

[46] Records, p. 43.

> q: Now, according to Inspector Divina, it was police officer Santos who was able to recover from your vehicle these two bricks of marijuana. What can you say about this?
>
> a: **At first, I did not see this marijuana, Sir, that they are saying because they immediately handcuffed me and disarmed me even before I could board my owner type jeepney**.[47]

The Court holds that the guilt of Belocura for the crime charged was not proved beyond reasonable doubt. Mere suspicion of his guilt, no matter how strong, should not sway judgment against him. Every evidence favoring him must be duly considered. Indeed, the presumption of innocence in his favor was not overcome. Hence, his acquittal should follow, for, as the Court fittingly said in *Patula v. People*:[48]

> xxx in all criminal prosecutions, the Prosecution bears the burden to establish the guilt of the accused beyond reasonable doubt. In discharging this burden, the Prosecution's duty is to prove each and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein. The Prosecution must further prove the participation of the accused in the commission of the offense. **In doing all these, the Prosecution must rely on the strength of its own evidence, and not anchor its success upon the weakness of the evidence of the accused. The burden of proof placed on the Prosecution arises from the presumption of innocence in favor of the accused that no less than the Constitution has guaranteed. Conversely, as to his innocence, the accused has no burden of proof, that he must then be acquitted and set free should the Prosecution not overcome the presumption of innocence in his favor. In other words, the weakness of the defense put up by the accused is inconsequential in the proceedings for as long as the Prosecution has not discharged its burden of proof in establishing the commission of the crime charged and in identifying the accused as the malefactor responsible for it.**[49]

WHEREFORE, we **REVERSE** and **SET ASIDE** the decision promulgated on January 23, 2006; **ACQUIT** accused **REYNALDO BELOCURA *y* PEREZ** for failure of the Prosecution to prove his guilt beyond reasonable doubt; **DIRECT** the immediate release from detention of **REYNALDO BELOCURA *y* PEREZ**, unless he is also detained for some other lawful cause; and **ORDER** the Director of the Bureau of Corrections

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47 TSN, May 7, 2002, pp. 15-16.
48 G.R. No. 164457, April 11, 2012.
49 Bold emphasis supplied.

to forthwith implement this decision upon receipt, and to report his action hereon to this Court within 10 days from receipt.

No pronouncement on costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
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