



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

EDWIN FAJARDO and
REYNALDO CORALDE,
Petitioners,

G.R. No. 185460

Present:

CARPIO, J.,
Chairperson,
DEL CASTILLO,*
PEREZ,
SERENO, and
REYES, JJ.

-versus-

Promulgated:

PEOPLE OF THE PHILIPPINES,
Respondent.

JUL 25 2012 *H. Katala*

X -----

DECISION

PEREZ, J.:

For consideration is the petition for review on *certiorari* filed by petitioners Edwin Fajardo (Fajardo) and Reynaldo Coralde (Coralde) from the Decision¹ dated 15 September 2008 of the Court of Appeals in CA-G.R. CR No. 30451, affirming the 25 September 2006 Joint Decision² of the Regional Trial Court (RTC) of Quezon City, Branch 103, which found them guilty beyond reasonable doubt of the crime of illegal possession of *shabu*.

* Per Special Order No. 1257 dated 19 July 2012.

¹ Penned by Associate Justice Monina Arevalo-Zenarosa with Associate Justices Regalado E. Maambong and Marlene Gonzales-Sison, concurring. *Rollo*, pp. 121-134.

² Presided by Judge Jaime N. Salazar, Jr. Records, pp. 183-191.

On 26 December 2002, petitioners were charged with violation of Section 11, Article II, Republic Act No. 9165, otherwise known as Comprehensive Dangerous Drugs Act of 2002, in two (2) separate Informations, which read as follow:

INFORMATION

The undersigned accuses EDWIN FAJARDO Y DADULA of Violation of Section 11, Art. II, R.A. 9165, Comprehensive Dangerous Drugs Act of 2002, committed as follows:

That on or about the 21st day of December, 2002 in Quezon City, Philippines, the said accused not being authorized by law to possess or use any dangerous drug, did then and there, wilfully, unlawfully and knowingly have in her/his/their possession and control, one (1) disposable lighter and four (4) transparent plastic sachet containing traces of Methylamphetamine Hydrochloride known as Shabu, the content of which does not exceed one gram.³

INFORMATION

The undersigned accuses REYNALDO CORALDE Y FERNANDEZ of Violation of Section 11, Art. II, R.A. 9165, Comprehensive Dangerous Drugs Act of 2002, committed as follows:

That on or about the 21st day of December, 2002 in Quezon City, Philippines, the said accused not being authorized by law to possess or use any dangerous drug, did then and there, wilfully, unlawfully and knowingly have in her/his/their possession and control, zero point zero two (0.02) grams of Methylamphetamine Hydrochloride known as Shabu; one (1) rolled aluminum foil and one (1) improvised tooter a dangerous drug.⁴

Petitioners pleaded not guilty on the charges. A joint trial then proceeded.

The facts, as narrated by two prosecution witnesses, follow.

³ Records, p. 2.
⁴ Id. at 4.

Acting on a tip from a *barangay* official of an ongoing pot session, a certain SPO4 Cilieto immediately dispatched six (6) police officers including PO1 Joel Tuscano (PO1 Tuscano) and PO1 Pedro Bernardo (PO1 Bernardo) to a house in 26 *Mabilis* Street, *Barangay* Piñahan, Quezon City at around 3 to 4 o'clock in the afternoon of 21 December 2002. The house is reportedly owned by Coralde.⁵

Upon arriving at the house, the door was slightly open. From the small opening, PO1 Tuscano saw one male person, whom he called as Gerald or Gerry Malabanan, lighting up an aluminum foil. When asked by the court to identify Malabanan, PO1 Tuscano mistakenly pointed to Fajardo. PO1 Tuscano then identified Malabanan as the other male person he saw inside the house.⁶ PO1 Bernardo saw through the partial opening Malabanan with a lighter, while Coralde was holding a lighter and a *tooter*, and Fajardo, an aluminum foil.⁷ PO1 Tuscano then explained that he and the other police officers introduced themselves and confiscated the drug paraphernalia consisting of one lighter, scissor, aluminum foil and empty plastic sachet. PO1 Tuscano confiscated the aluminum foil from Fajardo. These items were brought to the police station, turned over to the investigator, PO2 Merlito Tugo (PO2 Tugo), who in turn, brought them to the crime laboratory.⁸

The three accused and two other witnesses testified for the defense. Fajardo said that he went to the house of Coralde to retrieve his *cellphone* which he pawned to Coralde's wife.⁹ Malabanan, on the other hand, alleged that the wife of Coralde had asked him to go to her house to take her to the

⁵ Testimony of PO1 Pedro Bernardo. TSN, 21 August 2003, pp. 3-4.

⁶ Testimony of PO1 Joel Tuscano. TSN, 25 April 2003, pp. 5-8.

⁷ Testimony of PO1 Pedro Bernardo. TSN, 21 August 2003, pp. 5-8.

⁸ Testimony of PO1 Joel Tuscano. TSN, 25 April 2003, pp. 9-10.

⁹ Testimony of Edwin Fajardo. TSN, 6 December 2004, pp. 4-5.

hospital. Malabanan and Coralde's two (2) sons were also inside the house. They were asked to wait for Coralde's wife, who was then taking a bath. While waiting, the three accused watched the television. Malabanan said he heard someone called out to a *Paring Coring*.¹⁰ Fajardo heard someone knocking at the door and looking for a *Pareng Buboy*¹¹ while Coralde heard a voice from outside calling a certain *Pareng Boyong*.¹² Before anyone could open the door, a group of men barged into the house. Coralde and Fajardo scampered to a connecting bathroom which leads to another room owned by Remia Ruanto (Ruanto). Coralde explained that he ran towards the other house when some strangers came barging into his house because he was caught by surprise.¹³ Fajardo followed Coralde because he got scared.¹⁴ They were eventually caught inside Ruanto's room. Meanwhile, Malabanan stayed seated. He got shocked by the events that transpired and he immediately introduced himself as an employee of East Avenue Medical Center. The police officers took the identification card and ₱400.00 cash from his wallet.

The three accused were handcuffed, boarded to a car, and brought to the police station. They were brought to Caloocan City for inquest. They all denied that they were having a pot session. Fajardo claims that he saw the confiscated drug paraphernalia for the first time during their inquest.¹⁵

Chemistry Report No. D-1498-02 shows the qualitative examination that was conducted on the following specimens and with the following results:

¹⁰ Testimony of Gerry Malabanan. TSN, 16 March 2005, pp. 4-8.

¹¹ Testimony of Edwin Fajardo. TSN, 6 December 2004, p. 6.

¹² Testimony of Reynaldo Coralde. TSN, 27 April 2005, pp. 9-10.

¹³ Testimony of Reynaldo Coralde. TSN, 26 September 2005, p. 14.

¹⁴ Testimony of Edwin Fajardo. TSN, 6 December 2004, p. 7.

¹⁵ Id. at 12.

SPECIMEN SUBMITTED:

1. One (1) heat-sealed transparent plastic sachet, marked A (JT-A 12-21-02) containing 0.02 gram of white crystalline substance.
2. One (1) strip of aluminum foil, marked B (JT-B 12-21-02) with traces of white crystalline substance.
3. Four (4) unsealed transparent plastic sachets, each with markings JT-D 12-21-02 containing traces of white crystalline substance and collectively marked as "C."
4. One (1) piece glass pipe, marked D (JT-F 12-21-02).
5. Three (3) disposable lighters, marked E (JT-E1 12-21-02) F(JT-E2 12-21-02) and G (JT-E3 12-21-02) respectively.
6. One (1) pair of scissor, marked H (JT-6 12-21-02).
7. One (1) rolled aluminum foil, marked I (JT-C 12-21-02).

x x x x.

FINDINGS:

Qualitative examination conducted on the specimen A through D gave the following results:

Specimens A and C – POSITIVE to the tests for Methylamphetamine hydrochloride, a dangerous drug.

Specimens B and D – NEGATIVE to the tests for the presence of any dangerous drugs.¹⁶

Noticeably, Specimens E to I were not examined.

Finding the testimonies of the 2 police officers credible, the trial court rendered a decision finding petitioners guilty as charged. Malabanan was acquitted. The dispositive portion of the Decision reads:

¹⁶ Records, p. 9 and its dorsal part.

ACCORDINGLY, judgment is hereby rendered finding accused EDWIN FAJARDO y Dadula in Criminal Case No. Q-02-114130 and REYNALDO CORALDE y Fernandez in Criminal Case No. Q-02-114131 GUILTY each of the offense of Section 11, Art. II, R.A. 9165 violation and each accused is hereby sentenced to imprisonment of Twelve (12) Years and One (1) Day as Minimum to Twelve (12) Years and Six (6) Months as Maximum and each to pay a fine of Three Hundred Thousand Pesos (P300,000.00).

As for GERRY MALABANAN y Nitural, he is hereby ACQUITTED in Criminal Case No. Q-02-114132 of the offense of Section 12, Art. II, R.A. 9165 as it was not established by the arresting policemen that indeed drugs or paraphernalia were recovered from his possession, and moreover, he appears to be a mere visitor there to help Mrs. Coralde in her scheduling of operation at EAMC where he works.

The drugs involved in these cases are hereby ordered transmitted to the PDEA thru the Dangerous Drugs Board for proper disposition upon finality of this judgment. The PDEA is requested to take good care in the storage of these *shabus* within its premises.¹⁷

The Court of Appeals, on appeal, affirmed the RTC decision. The Court of Appeals sustained the conviction of petitioners. It found the prosecution's version more credible and relied on the presumption of regularity on the part of the police officers and on the absence of any ill-motive on their part. The Court of Appeals justified the validity of the warrantless arrest under the "plain view" doctrine. Petitioners moved for reconsideration but the same was denied by the appellate court.

The instant petition raises the lone issue of whether the prosecution was able to prove beyond reasonable doubt the guilt of petitioners. Petitioners primarily assail the identity of the *shabu* as evidence of the *corpus delicti* in light of non-compliance with the chain of custody rule. Petitioners argue that they were not in possession of the plastic sachets apparently containing *shabu*. The prosecution merely sought to establish that petitioners were caught in possession of a lighter, *tooter* and aluminum

¹⁷ Rollo, p. 98.

foil, all of which were neither examined by the forensic chemist nor found to be positive for traces of *shabu*.

On the other hand, the Office of the Solicitor General relied on the straightforward and positive testimony of the prosecution witnesses that petitioners were caught in possession of *shabu*.

In view of the interrelated issues presented, a joint discussion is in order.

In order for prosecution for illegal possession of a dangerous drug to prosper, there must be proof that (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug.

In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and its existence is vital to sustain a judgment of conviction beyond reasonable doubt. Proof beyond reasonable doubt demands that unwavering exactitude be observed in establishing the *corpus delicti*. The chain of custody rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed.¹⁸ The rule seeks to settle definitively whether the object evidence subjected to laboratory examination and presented in court is the same object allegedly seized from appellant.¹⁹

¹⁸ *People v. Gutierrez*, G.R. No. 179213, 3 September 2009, 598 SCRA 92, 101 citing *People v. Simbahon*, G.R. No. 132371, 9 April 2003, 401 SCRA 94, 99; *Malillin v. People*, G.R. No. 172953, 30 April 2008, 553 SCRA 619, 632; *People v. Kimura*, 471 Phil. 895, 919 (2004).

¹⁹ *People v. Gutierrez*, id. at 102.

In *Malillin v. People*, the Court elucidated on the chain of custody rule, thus:

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.**²⁰ [Emphasis Supplied]

The prosecution failed to prove the crucial first link in the chain of custody. The prosecution witnesses, both arresting officers, testified on how the plastic sachets containing traces of *shabu* were seized from petitioners. PO1 Tuscano, who even made a mistake in identifying Fajardo as Malabanan, gave a rather vague account, thus:

A: When we arrived [at] the house we saw the door opened [sic] and we entered.

Q: After entering the house, what did you see?

A: We saw one male person with a lighter and *gumagamit ng shabu*.

Q: Who was that person?

A: Gerard, sir.

Q: And how was he using *shabu*?

A: He was lighting up an aluminum foil.

Q: And what else did you see?

A: The other one was waiting.

²⁰

Supra note 18 at 632-633.

Q: And who was the other one waiting?

A: I could not remember who was that person but there were 3 of them.

Q: Would you be able to indentify Gerry if he is inside the courtroom?

A: That man, sir.

INTERPRETER

Witness pointed to a person inside the courtroom who identified himself as EDWIN FAJARDO.

COURT

The person pointed to by the witness as Gerry Malabanan is Edwin Fajardo.

FISCAL JURADO

Q: How about the other person if inside the courtroom?

A: I could not remember.

Q: How many persons did you see inside?

A: Three (3) sir.

Q: Do you know the identity of the 3rd person?

A: I could not remember. I can recognize them by face.

Q: If he is inside the courtroom, the 2nd person?

COURT

Q: Tap his shoulder.

WITNESS

A: That man.

INTERPRETER

Witness pointed to a person inside the courtroom who identified themselves as Gerry Malabanan and Edwin Fajardo.

FISCAL JURADO

Q: And after that, what did you do [to] the 3 of them?

WITNESS

A: We introduced ourselves as police officers and we confiscated the paraphernalia.

Q: What were the paraphernalia confiscated?

A: One lighter, scissor, aluminum foil, **empty plastic sachet**.

Q: What else?

A: Only those.

Q: And after you confiscated it, what happened next?

A: We brought them to the police station.

Q: What happened next?

A: We turned them over to the investigator.

Q: How about the item you confiscated?

A: We brought it to the crime lab.

Q: Who brought that to the crime lab.

A: Our investigator.

Q: What is his name?

A: PO2 Merlito Tugo.

Q: What is the result of that?

A: Positive, sir.

Q: What were the items positive?

A: Aluminum foil.

Q: What else?

A: I could not remember.²¹ (Emphasis supplied).

On cross-examination, the defense lawyer inquired about the plastic sachet:

Q: Those empty plastic sachet[s] that you mentioned, those were scattered when you entered the house?

A: Yes, but they [were] just beside them.

Q: How about the aluminum foil, where did you get that?

²¹ Testimony of PO1 Joel Tuscano. TSN, 25 April 2003, pp. 5-11.

A: The person was holding it.

COURT

Q: You pointed 2 persons here, who was the one holding it.

ATTY. MOSING

May we state from the record that the witness said “*parang si ano.*”

COURT

The witness tapped the shoulder of Edwin Fajardo.²²

First, PO1 Tuscano stated that he saw one of the accused using *shabu*. Unfortunately, he was not able to identify which one, from Malabanan and Fajardo, was committing the crime. Second, PO1 Tuscano stated that an empty plastic sachet was confiscated. But he did not identify from whom it was seized. Third, the other plastic sachets only cropped up during the cross-examination where PO1 Tuscano declared that he “found those beside them,” apparently referring to all of the accused. Gauging from PO1 Tuscano’s statement, he did not pinpoint from whom he specifically seized the empty plastic sachets. He did not explain, nor was it asked of him, how many sachets were seized. Fourth and more importantly, the Chemistry Report yielded negative results upon examination of Specimens B and D which were the glass pipe or *tooter* and the aluminum foil, respectively.²³ This finding readily engenders doubt on whether Fajardo was actually sniffing *shabu* through a *tooter* at that time he was caught by the police officers.

PO1 Bernardo identified the drug paraphernalia held by the accused when they were allegedly caught:

Q: When you and PO3 Tuscano arrived on that place, what happened, what did you do, if any?

²² Id. at 15-16.

²³ Chemistry Report No. D-1498-02. Records, p. 9 and its dorsal part.

A: We joined the team that was already there.

Q: And then what happened?

A: We saw the door was half opened.

Q: When your group saw that the door was half opened at the time, what happened next?

A: I saw two persons holding lighter and paraphernalia.

Q: Can you tell this court who were the two persons you saw inside that house?

A: Gerry Malabanan and Reynaldo Coralde.

Q: If those persons are inside the courtroom, can you identify these persons?

A: Yes, sir.

INTERPRETER

Witness pointed to a person inside the courtroom who identified himself as Gerry Malabanan

A: Turalde [sic] is not around.

FISCAL ARAULA

Q: You said that you saw two persons holding a lighter and drug paraphernalia, can you tell this Honorable Court who was holding a lighter at the time?

WITNESS

A: Gerry Malabanan, sir.

Q: How about the drug paraphernalia?

A: Reynaldo was holding [a] tooter.

Q: When you said that Coralde was holding a drug paraphernalia, what was that[?]

A: Lighter, sir.

Q: When you said that Coralde was holding drug paraphernalia, what do you mean by that, what are those drug paraphernalia?

A: lighter, tooter²⁴

²⁴

Testimony of PO1 Pedro Bernardo. TSN, 21 August 2003, pp. 4-5.

x x x x.

Q: After you confiscated these items as you mentioned the drug paraphernalia and the lighter from accused Malabanan and Coralde, how about Fajardo, what was he doing?

A: Holding an aluminum foil.

Q: Can you describe that aluminum foil, how big was that?

A: About 5 inches.

Q: If you[‘re] shown that item, can you identify that?

A: Yes, sir.

Q: How about the lighter?

A: Yes, sir.

Q: How about the tooter as you mentioned?

A: Yes, sir.

Q: What can you say on those items in front of you?

A: These are the drug paraphernalia.

Q: Paraphernalia as what?

A: Drugs paraphernalia.

COURT

Q: What is the connection of that drug paraphernalia to this case?

WITNESS

A: Yes, there is.

FISCAL ARAULA

Q: What is the connection of the item shown to you in this case.

WITNESS

A: This lighter came from Malabanan.

Q: How about the two lighters?

A: These particular lighters are not included.

COURT

According to the witness these two lighters colored pink and green are not included.

FISCAL ARAULA

Q: How about the aluminum foil, what can you say to this aluminum foil?

WITNESS

A: This is the aluminum foil.

Q: Who used that aluminum foil?

A: The three, sir.

Q: Who was holding this aluminum foil?

A: Fajardo, sir.

Q: How about these two plastic sachet, do you know where it came from?

A: These were also part of paraphernalia taken from them.

Q: How about the scissor?

A: Also the scissor and the aluminum foil, tooter.²⁵

PO1 Bernardo had apparently seen Coralde in the act of sniffing from the *tooter*, Fajardo holding an aluminum foil and Malabanan holding the lighter. Again, the aluminum foil and the *tooter* were found negative for traces of *shabu*. Noticeably, PO1 Bernardo did not initially mention the plastic sachets until he was asked. It was the public prosecutor who brought up the question where the plastic sachets came from, to which PO1 Bernardo replied indistinctly: “These were also part of paraphernalia taken from them.”

The testimonies of the prosecution witnesses merely established the possession of drug paraphernalia, *i.e.*, aluminum foil, lighter, and *tooter* by petitioners. Petitioners were however charged for violation of Article II, Section 11, Republic Act No. 9165 or for possession of illegal drugs which reads:

²⁵

Id. at 6-8.

Section 11. Possession of Dangerous Drugs. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

- (1) 10 grams or more of opium;
- (2) 10 grams or more of morphine;
- (3) 10 grams or more of heroin;
- (4) 10 grams or more of cocaine or cocaine hydrochloride;
- (5) 50 grams or more of methamphetamine hydrochloride or "shabu";
- (6) 10 grams or more of marijuana resin or marijuana resin oil;
- (7) 500 grams or more of marijuana; and
- (8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDA) or "ecstasy", paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxyamphetamine (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

None of the dangerous drugs enumerated above and more specifically, *shabu*, were convincingly proven to have been in possession of petitioners. On the other hand, possession of drug paraphernalia is dealt with in Section 12 of Republic Act No. 9165, which reads:

Section 12. Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs. -The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: *Provided*, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

Notably, a case for possession of drug paraphernalia was filed but only against Malabanan, who was later on acquitted by the trial court.

Another phase of the first link to the chain of custody is the marking of seized items. The rule requires that it should be done in the presence of the apprehended violator and immediately upon confiscation to ensure that they are the same items that enter the chain and are eventually the ones offered in evidence.²⁶ Evidently, the marking was not done at the scene of the crime. In fact, PO1 Bernardo testified that it was an investigator of the crime laboratory, whose name he cannot recall, who made the markings. Indeed, PO1 Bernardo could not explain the actual markings.²⁷

The prosecution miserably failed to establish the crucial first link in the chain of custody. The plastic sachets, while tested positive for *shabu*, could not be considered as the primary proof of the *corpus delicti* because the persons from whom they were seized were not positively and categorically identified by prosecution witnesses. The prosecution likewise failed to show how the integrity and evidentiary value of the item seized had been preserved when it was not explained who made the markings, how and where they were made.

The second link in the chain of custody constitutes custody and possession of the *shabu* prior, during and immediately after the police investigation and how the *shabu* was stored, preserved, labeled and recorded from the time of its seizure up to its receipt by the crime laboratory.²⁸ PO1 Tuscano merely identified PO2 Tugo as the one who brought the confiscated items to the crime laboratory. But it was not clear whether it was PO2 Tugo

²⁶ *People v. Alcuizar*, G.R. No. 189980, 6 April 2011, 647 SCRA 431, 437-438 citing *People v. Sanchez*, G.R. No. 175832, 15 October 2008, 569 SCRA 194, 218.

²⁷ Testimony of PO1 Pedro Bernardo. TSN, 21 August 2003, p. 16.

²⁸ *People v. Kamad*, G.R. No. 174198, 19 January 2010, 610 SCRA 295, 308.

who received the seized items from the police officers who arrived at the police station. In the Joint Affidavit of Arrest, the police officers stated “that all the recovered evidence were confiscated and properly handled and transported to this Station for safekeeping”²⁹ without stating the particulars. Moreover, no details were given as to who was in custody of the seized items while in transit. Thus, the reliability, nay existence of the second link, had clearly been compromised.

The third link in the chain should detail who brought the seized *shabu* to the crime laboratory, who received the *shabu* at the crime laboratory and, who exercised custody and possession of the *shabu* after it was examined and before it was presented in court.³⁰ Once again, these crucial details were nowhere to be found in the records. PO2 Tugo allegedly brought them to the crime laboratory but he was not presented to affirm and corroborate PO1 Tuscano’s statement, nor was any document shown to evidence the turnover of the seized items. The Request for Laboratory Examination was signed by a certain Police Senior Inspector Rodolfo Tababan. But his participation in the custody and handling of the seized items were never mentioned by the prosecution witnesses.

Considering these huge discrepancies in the chain of custody, the claim of regularity in the conduct of police operation will certainly not hold water. It bears stressing that the presumption of regularity only arises in the absence of contradicting details that would raise doubts on the regularity in the performance of official duties. Where the police officers failed to comply with the standard procedure prescribed by law, there is no occasion to apply the presumption.³¹

²⁹ Records, p. 8.

³⁰ Id. at 9 and its dorsal part.

³¹ *Lopez v. People*, G.R. No. 184037, 29 September 2009, 601 SCRA 316, 328.

Given that the prosecution failed to prove the indispensable element of the *corpus delicti*, there is no necessity to discuss the alleged procedural infirmities that may have attended the arrest of petitioners. This Court is thus constrained to acquit petitioners on reasonable doubt.

WHEREFORE, in view of the foregoing, the Decision dated 15 September 2008 of the Court of Appeals affirming the judgment of conviction by the Regional Trial Court of Quezon City, Branch 103, is hereby **REVERSED** and **SET ASIDE**. Petitioners Edwin Fajardo and Reynaldo Coralde are **ACQUITTED** based on reasonable doubt and are ordered immediately **RELEASED** from detention, unless they are confined for any other lawful cause.

The Director of the Bureau of Corrections is **DIRECTED** to **IMPLEMENT** this Decision and to report to this Court the action taken hereon within five (5) days from receipt.

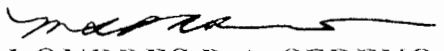
SO ORDERED.



JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

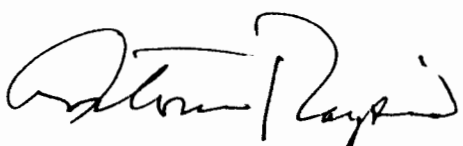

MARIANO C. DEL CASTILLO
Associate Justice


MARIA LOURDES P. A. SERENO
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

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.


ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)