



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 200877

Present:

VELASCO, Jr.,* J.,
LEONARDO-DE CASTRO,**
Acting Chairperson,
DEL CASTILLO,***
PEREZ, and
PERLAS-BERNABE, JJ.

- versus -

Promulgated:

NOV 12 2014

CHARVE JOHN LAGAHIT,
Accused-Appellant.

X-----X

DECISION

PEREZ, J.:

On appeal is the Decision¹ dated 17 March 2011 of the Court of Appeals in CA-G.R. CEB-CR HC. No. 000867 affirming the Decision² dated 21 June 2007 of the Regional Trial Court (RTC) of Cebu City, Branch 13, in Criminal Case Nos. CBU-67096 and CBU-67097 finding herein appellant Charve John Lagahit guilty beyond reasonable doubt of violating Sections 5 (Illegal Sale of Dangerous Drugs) and 11 (Illegal Possession of Dangerous Drugs), Article II of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

* Per Special Order No. 1870 dated 4 November 2014.

** Per Special Order No. 1861 dated 4 November 2014.

*** Per Special Order No. 1862 dated 4 November 2014.

¹ Penned by Associate Justice Edwin D. Sorongon with Associate Justices Portia Aliño-Hormachuelos and Socorro B. Inting, concurring. *Rollo*, pp. 3-10.

² Penned by Judge Meinrado P. Paredes. *CA rollo*, pp. 29-31.

Two separate Informations,³ both dated 1 September 2003, were filed against appellant for violation of Sections 5 and 11, Article II of Republic Act No. 9165, for allegedly (a) selling 0.49 gram of *marijuana*; and (b) being in illegal possession of 0.88 gram of *marijuana*.

The offense involved in Criminal Case No. CBU-67096 for violation of Section 5, Article II of Republic Act No. 9165, was allegedly committed as follows:

That on or about the 29th day of August, 2003, at about 8:45 P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said [herein appellant], with deliberate intent, and without authority of law, did then and there sell, deliver or give away to a *poseur-buyer*:

Four (4) sticks of handrolled *marijuana* cigarette[s] having a total net weight 0.49 gram

x x x, a dangerous drug/s.⁴ (Emphasis supplied).

On the other hand, the Information pertaining to Criminal Case No. CBU-67097 for violation of Section 11, Article II of the same law, reads:

That on or about the 29th day of August 2003, at about 8:45 P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said [appellant], with deliberate intent, did then and there have in [his] possession and under [his] control the following:

B- Eight (8) sticks of handrolled *marijuana* cigarette[s] having total net weight of 0.88 gram:

a dangerous drug, without being authorized by law.⁵ (Emphasis supplied).

When arraigned, appellant pleaded NOT GUILTY to both charges.⁶ Pre-trial was conducted. Trial on the merits followed.

The prosecution presented two witnesses, namely: Police Officer 3 Arturo B. Lawas, Jr. (PO3 Lawas, Jr.), the arresting officer assigned at Station 4 of the Mabolo Police Station; and Police Senior Inspector Mutchit

³ Records, pp. 19-20 and 31-32.

⁴ Id. at 31.

⁵ Id. at 19.

⁶ Per RTC Order and Certificate of Arraignment both dated 18 November 2003. Id. at 36-37.

Salinas (P/S. Insp. Salinas), Forensic Chemical Officer, Philippine National Police (PNP) Regional Crime Laboratory Office 7, Camp Sotero Cabahug, Gorordo Ave., Cebu City. The testimony, however, of this forensic chemist was later on dispensed with per agreement of the parties.⁷

The prosecution presented its case as follows:

Based on the reports of some teachers of *Barangay* Lahug Elementary School in Cebu City, and on the information gathered by the trusted informant who is a resident of the place, regarding the illegal sale of dangerous drugs in the area and that the appellant was among the perpetrators, PO3 Lawas, Jr., being the community cop of *Barangay* Lahug, Cebu City, together with two *barangay tanod*, namely: Celso Nicor (Nicor) and Reuben Laping, was instructed to closely monitor the said illegal activities. PO3 Lawas, Jr. then conducted surveillance. As a result, PO3 Lawas, Jr. confirmed that, indeed, the appellant plies his illegal drug trade in *Barangay* Lahug, particularly near the stairway of the flyover, which is also in close proximity to the *barangay* hall. Worse, most of his clients are the students of the night high school of the said *barangay*.⁸

A week after the surveillance, or on 29 August 2003, at around 8:45 p.m., PO3 Lawas, Jr. formed a buy-bust team to conduct a buy-bust operation against the appellant. PO3 Lawas, Jr., the team leader, designated his trusted informant to act as the *poseur*-buyer while he and the two *barangay tanod* were to serve as back-ups. A ₱20.00 peso bill buy-bust money with markings “ABL,” representing the initials of PO3 Lawas, Jr., was given to the trusted informant. The buy-bust team agreed to the pre-arranged signal that the trusted informant will take off his bull cap upon consummation of the sale transaction. Thereafter, the buy-bust team proceeded to the target area of its buy-bust operation, *i.e.*, near the stairway of the flyover that is close to the *barangay* hall of *Barangay* Lahug.⁹

At the target area, PO3 Lawas, Jr. and the two *barangay tanod* positioned themselves on the opposite side of the road near the *barangay* hall. On the other hand, the trusted informant, who is the designated *poseur*-buyer, immediately approached the appellant upon seeing the latter. The trusted informant handed the ₱20.00 peso bill marked money to the appellant and the latter, in turn, gave four sticks of handrolled *marijuana*

⁷ RTC Order dated 5 October 2006. *Id.* at 94.

⁸ Testimony of PO3 Lawas, Jr., TSN, 10 January 2007, pp. 3-7; Testimony of PO3 Lawas, Jr., TSN, 11 January 2007, pp. 3-6.

⁹ *Id.* at 3-8 and 10-11; *Id.* at 4 and 10-11.

cigarettes to the former. From his position, PO3 Lawas, Jr. can vividly see the ongoing sale transaction between the trusted informant and the appellant, as there was a lamppost of the Visayan Electric Company (VECO) one meter away right below the flyover of *Barangay Lahug*. Upon the consummation of the sale, the trusted informant executed at once their pre-arranged signal by taking off his bull cap. Without ado, PO3 Lawas, Jr. and the two *barangay tanod* crossed the road to apprehend the appellant. But, before they could do so, another person approached the appellant and walked with him towards the opposite side of the road. Nonetheless, PO3 Lawas, Jr. and the two *barangay tanod* followed them until they apprehended the appellant. Appellant's companion, on the other hand, managed to escape. After the appellant was handcuffed, PO3 Lawas, Jr. recovered from the pocket of the former eight more sticks of handrolled *marijuana* cigarettes. The ₱20.00 peso bill marked money and the cash money amounting to ₱90.00, consisting of three pieces ₱20.00 peso bills and six pieces ₱5.00 peso coins, believed to be proceeds of appellant's illegal activities, were also recovered from the latter's possession.¹⁰

The appellant was, thereafter, brought to the *barangay* hall and was later transferred to the Mabolo Police Station. All the seized items remained with PO3 Lawas, Jr. until they reached the police station. Upon arrival thereat, *Barangay Tanod* Nicor marked the four sticks of handrolled *marijuana* cigarettes, which were the subject of the sale transaction, with BBCJLR 08292003. While the other eight sticks of handrolled *marijuana* cigarettes, which were recovered from the possession of the appellant during his arrest, were marked by PO3 Lawas, Jr. with CJLR-08292003-18. Afterwards, all the marked pieces of evidence, together with a Request for Laboratory Examination of the same, were brought by PO3 Lawas, Jr. to the PNP Crime Laboratory, where P/S. Insp. Salinas, the forensic chemist, conducted qualitative examination on the specimens.¹¹ Per Chemistry Report No. D-1561-2003 dated 30 August 2003, all specimens yielded positive result for the presence of *marijuana*, a dangerous drug.¹²

To counter the evidence of the prosecution, the defense presented the lone testimony of the appellant, who interposed denial and suggested a frame-up for his exculpation.

Appellant claimed that on 29 August 2003, at around 8:45 p.m., he was beside the *barangay* hall of *Barangay Lahug* waiting for his friend named Roy, a driver of a public utility vehicle, as he would clean the vehicle

¹⁰ Id. at 8-13; Id. at 2 and 9-13.

¹¹ Id. at 11-15; Id. at 2.

¹² Records, p. 24.

of the former. However, he was not able to do so as three men went near him and arrested him for no apparent reason. As he tried to resist the arrest, one of the men poked a Magnum .357 at the back of his head. He was then brought to the *barangay* hall of *Barangay Lahug*, where the arresting officers told him that they had found something, which looks like a cigarette, inside his pocket. He, in turn, told the arresting officers that those were not his. Thereafter, he was transferred to the Mabolo Police Station, where he first knew the two charges filed against him.¹³

After hearing both parties, the trial court rendered a Decision dated 21 June 2007, finding the appellant guilty of the offenses charged. The dispositive portion of its decision reads:

WHEREFORE, judgment is hereby rendered finding [herein appellant] **CHARVE JOHN LAGAHIT** GUILTY beyond reasonable doubt of the crime of Violation of Section 5, Article II, [Republic Act No. 9165] and sentences him to **LIFE IMPRISONMENT**, plus fine in the amount of **Three Hundred Thousand (₱300,000.00) Pesos**; and [i]n CBU-67097, the court also finds him guilty beyond reasonable doubt of the crime of Violation of Section 11, Article II, [Republic Act No. 9165], and sentences him to a penalty of imprisonment of **TWELVE (12) YEARS and ONE (1) DAY, as minimum, to TWENTY (20) YEARS, as maximum, plus fine in the amount of Two Hundred Thousand (₱200,000.00) Pesos.**

The four hand rolled *marijuana* sticks in CBU-67096 and the eight rolled *marijuana* sticks in CBU-67097 are hereby confiscated in favor of the government and destroyed pursuant to law.

With cost against the [appellant].¹⁴

The trial court found that the elements for the crimes of illegal sale and illegal possession of *marijuana* were sufficiently established by the evidence of the prosecution beyond reasonable doubt. The trial court held that appellant's weak testimony cannot prevail over the straightforward, frank, and honest testimony of PO3 Lawas, Jr., a police officer, who was just doing his duty. In the same manner, the trial court stated that PO3 Lawas, Jr. and the two *barangay tanod*, who participated in the buy-bust operation, were properly performing their duties as they were not inspired by any improper motive.

¹³ Testimony of the appellant, TSN, 17 January 2007, pp. 3-7.

¹⁴ CA *rollo*, pp. 30-31.

On appeal,¹⁵ the Court of Appeals, in its Decision dated 17 March 2011, affirmed the guilty verdict and the sentence imposed by the trial court.

Hence, the instant recourse raising this lone assignment of error:

THE TRIAL COURT ERRED IN CONVICTING THE [HEREIN APPELLANT] OF THE CRIMES CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.¹⁶

Appellant contends that the prosecution failed to prove the identity of the *corpus delicti* as its sole witness never testified as to how he was able to recover the four sticks of handrolled *marijuana* cigarettes, which are the *corpus delicti* of the crime of illegal sale of *marijuana* from the possession of the *poseur*-buyer. This failure leaves lingering doubt if indeed the *marijuana* was sold by the appellant to the *poseur*-buyer. Appellant posits that the four sticks of handrolled *marijuana* cigarettes submitted by the prosecution could be objects totally different from that which was allegedly, or was not that which was actually seized during the buy-bust operation.

Appellant further argues that there was non-compliance with the requirements set forth in Section 21, Article II of Republic Act No. 9165, *i.e.*, the physical inventory and the taking of photographs of the seized items.

Appellant also believes that the non-presentation of the police officers who conducted the inquest proceedings and marked the seized drugs is fatal to the prosecution's case as a crucial link in the chain of custody of the illegal drugs was not established by such omission.

Simply put, the issue for resolution is whether there is sufficient evidence to establish appellant's guilt beyond reasonable doubt of the crimes charged.

This Court rules in the negative.

The right of the accused to be presumed innocent until proven guilty is guaranteed under Section 14(2), Article III (Bill of Rights) of the 1987 Philippine Constitution. This fundamental right of the accused is also

¹⁵ Per Notice of Appeal dated 29 August 2007. Records, p. 123.

¹⁶ Brief for the [Appellant] dated 17 April 2009. CA *rollo*, p. 16.

embodied under Section 2, Rule 133 of the Rules of Court,¹⁷ which specifically states that “in a criminal case, the accused is entitled to an acquittal, unless his guilt is proved beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof, excluding possibility of error, produces absolute certainty. Only moral certainty is required, or that degree of proof which produces conviction in an unprejudiced mind.”

Time and again, this Court held that in every prosecution for illegal sale of dangerous drugs, like *marijuana*, the following essential elements must be duly established: (1) the identities of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment for it.¹⁸ Similarly, it is essential that the transaction or sale be proved to have actually taken place coupled with the presentation in court of evidence of *corpus delicti*, that is, the actual commission by someone of the particular crime charged.¹⁹

On the other hand, to successfully prosecute a case of illegal possession of dangerous drugs, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.²⁰

The prohibited drug is an integral part of the *corpus delicti* of the crimes of illegal sale and illegal possession of dangerous drugs; proof of its identity, existence, and presentation in court is crucial. A conviction cannot be sustained if there is a persistent doubt on the identity of the drug. The identity of the prohibited drug must be established with moral certainty. **Apart from showing that the elements of possession or sale are present, the fact that the substance illegally possessed and sold in the first place is the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.**²¹ The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.²²

¹⁷ *People v. Climaco*, G.R. No. 199403, 13 June 2012, 672 SCRA 631, 640.

¹⁸ *People v. Barba*, G.R. No. 182420, 23 July 2009, 593 SCRA 711, 717.

¹⁹ *People v. Climaco*, supra note 17 at 641.

²⁰ *Id.*

²¹ *People v. Barba*, supra note 18 at 717.

²² *Malillin v. People*, 576 Phil. 576, 587 (2008).

Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002, that implements the Comprehensive Dangerous Drugs Act of 2002, defines “chain of custody” as follows:

“Chain of Custody” means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.²³

In *People v. Gatlabayan*²⁴ citing *People v. Kamad*,²⁵ this Court enumerated the links that the prosecution must establish in the chain of custody in a buy-bust situation to be as follows: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.

A careful perusal of the records shows that while the identities of the seller and the buyer and the consummation of the transaction involving the sale of illegal drug on 29 August 2003 have been proven by the prosecution through the testimony of PO3 Lawas, Jr., this Court, nonetheless, finds the prosecution evidence to be deficient for failure to adequately show the essential links in the chain of custody, particularly how the four sticks of handrolled *marijuana* cigarettes subject of the sale transaction came into the hands of PO3 Lawas, Jr. from the trusted informant, who was the designated *poseur-buyer*.

To note, after the exchange of the buy-bust money and the four sticks of handrolled *marijuana* cigarettes between the trusted informant and the appellant, the former gave the pre-arranged signal to PO3 Lawas, Jr. and the two *barangay tanod* by taking off his bull cap. Immediately, thereafter, PO3 Lawas, Jr. and the two *barangay tanod*, who were positioned on the opposite side of the street, moved towards the other side, where the appellant and the

²³ *People v. Climaco*, supra note 17 at 642.

²⁴ G.R. No. 186467, 13 July 2011, 653 SCRA 803, 816-817.

²⁵ G.R. No. 174198, 19 January 2010, 610 SCRA 295, 307-308.

trusted informant were, in order to apprehend the former. But, before they could do so, another person already approached the appellant and walked with him towards the opposite side of the road. PO3 Lawas, Jr. and the two *barangay tanod* then followed them until they apprehended the appellant and whose companion managed to escape. PO3 Lawas, Jr. handcuffed the appellant and bodily searched him leading to the recovery of the following: (1) eight more sticks of handrolled *marijuana* cigarettes from the latter's pocket; (2) ₱20.00 peso bill marked money; and (3) cash money amounting to ₱90.00, believed to be proceeds of his illegal activities. Thereafter, the appellant was brought to the *barangay* hall and was later transferred to the Mabolo Police Station. All the seized items remained with PO3 Lawas, Jr. until they reached the police station. Upon arrival thereat, *Barangay Tanod* Nicor marked the four sticks of handrolled *marijuana* cigarettes subject of the sale transaction, while the other eight sticks of handrolled *marijuana* cigarettes recovered from the possession of the appellant during his arrest were marked by PO3 Lawas, Jr. These marked pieces of evidence, together with a Request for Laboratory Examination of the same, were brought by PO3 Lawas, Jr. to the PNP Crime Laboratory.²⁶ The qualitative examination conducted on the specimens yielded positive result for *marijuana*, a dangerous drug.²⁷

From the foregoing set of facts, there was no mention how the four sticks of handrolled *marijuana* cigarettes, which were the subject of the sale transaction, came into the hands of PO3 Lawas, Jr. from the trusted informant. PO3 Lawas, Jr.'s testimony was lacking as to when, where and how the said four sticks of handrolled *marijuana* cigarettes sold by the appellant to the trusted informant were turned over to him by the latter. In the same manner, PO3 Lawas, Jr. failed to state that he actually seized the sold four sticks of handrolled *marijuana* cigarettes. Considering that PO3 Lawas, Jr. was not the *poseur*-buyer and he was not even with the *poseur*-buyer during the sale transaction as he was on the opposite side of the road, the turning over to him by the trusted informant of the four sticks of handrolled *marijuana* cigarettes sold by the appellant was the supposed first link in the chain of custody. Unfortunately, the prosecution failed to establish the same. This Court cannot overlook this evidentiary gap as it involves the identification of the sold four sticks of handrolled *marijuana* cigarettes. In the absence of the aforesaid link in the chain of custody, doubt arises if, indeed, the recovered four sticks of handrolled *marijuana* cigarettes that PO3 Lawas, Jr. brought to the *barangay* hall and then to the Mabolo Police Station; subsequently marked by *Barangay Tanod* Nicor; later

²⁶ Testimony of PO3 Lawas, Jr., TSN, 10 January 2007, pp. 11-15; Testimony of PO3 Lawas, Jr., TSN, 11 January 2007, p. 2; Per Request for Laboratory Examination dated 29 August 2003 and Certification of the Forensic Chemist dated 30 August 2003 (*See* Folder of Exhibits).

²⁷ Records, p. 24.

brought to the crime laboratory; and examined by the forensic chemist, which yielded positive for *marijuana*, were the same drugs actually sold by the appellant to the trusted informant.

Given the foregoing circumstances, it is beyond any cavil of doubt that the prosecution miserably failed to specifically identify the four sticks of handrolled *marijuana* cigarettes that were actually sold at the buy-bust as among those that were presented in court. This evidentiary situation effectively translates to the absence of proof of *corpus delicti*, and cannot but lead this Court to conclude that no valid conviction for the crime of illegal sale of *marijuana* can result.²⁸

Now, going to the crime of illegal possession of *marijuana*, there is also no doubt that the prosecution was able to fully satisfy all the elements of the crime. The prosecution, however, failed to show that the apprehending team complied with the required procedure for the custody and disposition of confiscated, seized and/or surrendered dangerous drugs set forth in Section 21, Article II of Republic Act No. 9165.

The procedure for the custody and disposition of confiscated, seized and/or surrendered dangerous drugs, among others, is provided under Section 21(a), paragraph 1, Article II of Republic Act No. 9165, thus:

- (a) 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. (Emphasis supplied).

The specific procedures relating to the seizure and custody of drugs have been laid down under the Implementing Rules and Regulations for Republic Act No. 9165, particularly Section 21(a), Article II thereof, and it is the prosecution's burden to adduce evidence that these procedures have been complied with in proving the elements of the offense.²⁹ The said Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165 reads:

²⁸ *People v. Bernardino*, G.R. No. 171088, 2 October 2009, 602 SCRA 270, 292.

²⁹ *People v. Lorenzo*, G.R. No. 184760, 23 April 2010, 619 SCRA 389, 402.

- (a) 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; 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 officers/team, shall not render void and invalid such seizures of and custody over said items.** (Emphasis supplied).

In the present case, the records are bereft of any indication that would show that the prosecution was able to establish the apprehending team's compliance with the above procedural safeguards. The records similarly do not contain any physical inventory report or photograph of the confiscated items. Even the lone prosecution witness never stated in his testimony that he or any member of the buy-bust team had conducted a physical inventory or taken pictures of the items. Although PO3 Lawas, Jr. testified that the seized drugs subject of the illegal possession case had been marked, nowhere can it be found that the marking thereof was done in the presence of the appellant or any of the above-mentioned third-party representatives.

While this Court recognizes that non-compliance by the buy-bust team with Section 21 of Republic Act No. 9165 is **not fatal as long as there is a justifiable ground therefor, for and as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team**, these conditions, however, were not met in the present case.³⁰ Despite of all the aforesaid major lapses, the prosecution neither offered any explanation why the procedure was not followed nor mentioned any justifiable ground for failing to observe the rule. In *People v. Ancheta*,³¹ this Court pronounced that when there is gross disregard of the procedural safeguards set forth in Republic Act No. 9165, serious uncertainty is generated as to the identity of the seized items that the prosecution presented in evidence. Such doubt cannot be remedied by merely invoking the presumption of regularity in the performance of official duties for a gross, systematic, or deliberate disregard of the procedural safeguards effectively produces an irregularity in the performance of official duties.³² Also in *People v. Ancheta*, this Court explained that:

³⁰ *People v. Morales*, G.R. No. 172873, 19 March 2010, 616 SCRA 223, 242.

³¹ G.R. No. 197371, 13 June 2012, 672 SCRA 604.

³² *Id.* at 617.

Indeed, it is the preservation of the integrity and evidentiary value of the seized items that is of utmost importance in determining the admissibility of the evidence presented in court, especially in cases of buy-bust operations. That is why Congress saw fit to fashion a detailed procedure in order to ensure that the integrity and evidentiary value of the confiscated items would not be compromised. **The marking of the seized items was only a piece in a detailed set of procedural safeguards embodied in [Republic Act No. 9165]. If the arresting officers were unable to comply with the other requirements, they were under obligation to explain why the procedure was not followed and prove that the reason provided a justifiable ground. Otherwise, the requisites under the law would merely be fancy ornaments that may or may not be disregarded by the arresting officers at their own convenience.**³³ (Emphasis supplied).

In view of the foregoing, serious doubt exists whether the drugs subject of the illegal possession case presented in court were the same as those recovered from the appellant. Thus, the prosecution likewise failed to prove beyond reasonable doubt the identity of the *corpus delicti* in the crime of illegal possession of *marijuana*.

Concededly, the evidence of the defense is weak and uncorroborated. This, however, cannot be used to advance the cause of the prosecution as the evidence for the prosecution must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense. Moreover, when the circumstances are capable of two or more inferences, as in this case, such that one of which is consistent with the presumption of innocence and the other is compatible with guilt, the presumption of innocence must prevail and the court must acquit.³⁴

It is truly distressing how courts are constrained to make acquittals, dismissals, or reversals by reason of the inadvertent failure of the arresting officers and the prosecution to establish compliance or justify non-compliance with a statutory procedure. It is even more troubling when those cases involve apparently known or long-suspected drug pushers. Congress was clear in its declaration on the eradication of the drug menace plaguing our country. Yet, also firm and stringent is its mandate to observe the legal safeguards provided for under Republic Act No. 9165. This is the reason why this Court has emphasized countless times that courts must remain vigilant in their disposition of cases related to dangerous drugs. Also, this Court has already called on the police, the Philippine Drug Enforcement

³³ Id. at 617-618.

³⁴ *People v. Santos, Jr.*, 562 Phil. 458, 473 (2007).

Agency, and the prosecution to reinforce and review the conduct of buy-bust operations and the presentation of evidence.³⁵

All told, the prosecution failed to establish the element of *corpus delicti* with the prescribed degree of proof required for successful prosecution of both sale and possession of prohibited drugs, thus, no valid conviction for the crimes charged can result.

WHEREFORE, the assailed Decision of the Court of Appeals dated 17 March 2011 in CA-G.R. CEB-CR HC. No. 000867, is hereby **REVERSED** and **SET ASIDE**. Appellant CHARVE JOHN LAGAHIT is hereby **ACQUITTED** based on reasonable doubt, and is ordered to be immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court within five (5) days from receipt of this Decision the action he has taken. Copies shall also be furnished the Director General, Philippine National Police, and the Director General, Philippine Drug Enforcement Agency, for their information.


SO ORDERED.


JOSE PORTUGAL BEREZ
Associate Justice


³⁵

People v. Ancheta, supra note 31 at 620.

WE CONCUR:




PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson




MARIANO C. DEL CASTILLO
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

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

A handwritten signature in black ink, appearing to read "Antonio T. Carpio", with a stylized flourish at the end.

ANTONIO T. CARPIO
Acting Chief Justice