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Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff-Appellee,*

G.R. No. 206590

Present:

- versus -

SERENO, C.J., Chairperson,  
LEONARDO-DE CASTRO,  
DEL CASTILLO,  
PERLAS-BERNABE,\* and  
CAGUIOA, JJ.

MYRNA GAYOSO y ARGUELLES,  
*Accused-Appellant.*

Promulgated:

**MAR 27 2017**

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DECISION

DEL CASTILLO, J.:

In criminal prosecutions for the illegal sale and possession of *shabu*, primordial importance must be given to “the preservation of the integrity and the evidentiary value of the seized items as they will be used to determine the guilt or innocence of the accused.”<sup>1</sup>

This is an appeal from the June 23, 2011 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00744 that affirmed *in toto* the April 12, 2007 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Guiuan, Eastern Samar, Branch 3, in Criminal Case Nos. 2079 and 2078, finding Myrna Gayoso y Arguelles (appellant) guilty beyond reasonable doubt of violating Sections 5 (illegal sale of a dangerous drug) and 11 (illegal possession of a dangerous drug), Article II of Republic Act (RA) No. 9165, respectively, and imposing upon her the penalty of life imprisonment and a fine of ₱500,000.00 for selling *shabu*, and the indeterminate prison term of eight (8) years and one (1) day, as minimum, to fourteen (14) years, eight (8) months and one (1) day, as maximum, for possessing 0.53 gram of *shabu*.

\* On official leave.

<sup>1</sup> *People v. Mendoza*, 683 Phil. 339, 350 (2012).

<sup>2</sup> *CA rollo*, pp. 100-111; penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Pampio A. Abarintos and Gabriel T. Ingles.

<sup>3</sup> *Records* (Criminal Case No. 2078), pp. 129-145; penned by Presiding Judge Rolando M. Lacedo-o.

***Factual Antecedents***

The Information in Criminal Case No. 2078 contained the following accusatory allegations against appellant:

That on or about the 24<sup>th</sup> day of March, 2004, at about 5:30 o'clock in the morning at Jetty, Brgy. Hollywood, Guian, Eastern Samar, Philippines, within the jurisdiction of this Honorable Court, the abovementioned accused who acted without the necessary permit from proper authorities whatsoever, did then and there willfully, unlawfully and feloniously have in her possession, control and custody eleven (11) x x x sachets [containing] Methamphetamine Hydrochloride commonly known as "shabu" weighing 0.53 [gram], a dangerous drug.

Contrary to law.<sup>4</sup>

The Information in Criminal Case No. 2079 charged appellant in the following manner:

That on or about the 24<sup>th</sup> day of March, 2004, at about 5:00 o'clock in the morning at Jetty, Brgy. Hollywood, Guian, Eastern Samar, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, who acted without the necessary permit or authority whatsoever, did then and there willfully, unlawfully and criminally sell, deliver and dispense one (1) pc. small heat sealed sachet of Methamphetamine Hydrochloride commonly known as "shabu" weighing 0.06 [gram], a dangerous drug.

Contrary to law.<sup>5</sup>

During arraignment, appellant entered a plea of "not guilty" in both cases. Joint trial then ensued.

***Version of the Prosecution***

Based on the testimonies of SPO3 Victorino de Dios (SPO3 De Dios), SPO3 Rolando G. Salamida (SPO3 Salamida), PO2 Rex Isip (PO2 Isip), SPO4 Josefina Bandoy (SPO4 Bandoy), P/Insp. Eleazar Barber, Jr. (PI Barber), PS/Insp. Benjamin Cruto (PSI Cruto), and the documentary exhibits, the following facts emerged:



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<sup>4</sup> Id. at 1.

<sup>5</sup> Records (Criminal Case No. 2079), p. 1.

PI Barber of the PNP<sup>6</sup> Guiuan Police Station directed SPO3 De Dios to conduct a surveillance on appellant after receiving several reports that she was peddling prohibited drugs. Three weeks later, SPO3 De Dios confirmed that appellant was indeed engaged in illegal drug activities. PI Barber filed for and was issued a search warrant. However, prior to implementing the search warrant, PI Barber decided to conduct a “confirmatory test-buy” designating SPO3 De Dios as poseur-buyer and giving him ₱200.00 marked money for the operation.

On March 24, 2004, SPO3 De Dios and a civilian asset proceeded to the house of appellant and asked her if they could buy *shabu*. The sale was consummated when appellant took the marked money from SPO3 De Dios after giving him a sachet of *shabu*. SPO3 De Dios immediately informed PI Barber by text message about the successful “confirmatory test-buy”. PI Barber and his team of police officers who were positioned 100 meters away rushed towards the house of appellant. He also instructed SPO3 De Dios and the civilian asset to summon the *Barangay* Chairman to witness the search of the house. When he arrived together with a *kagawad* and a media representative, SPO3 Salamida read the search warrant to appellant.

During the search of the house, SPO4 Bandy found a tin foil under the mattress. SPO3 De Dios took it from SPO4 Bandy and gave it to SPO3 Salamida who found seven sachets of *shabu* inside, in addition to the four sachets of *shabu* found inside the right pocket of the short pants of appellant. The search of the house also revealed several drug paraphernalia. An inventory of seized items was prepared and the same was signed by the *Barangay* Chairman, PO2 Isip, SPO4 Bandy, and appellant. The sachets of *shabu* were brought to the Philippine Drug Enforcement Agency (PDEA) then to the PNP Crime Laboratory for qualitative examination. The results of the examination verified that the seized sachets contained *shabu*.

### ***Version of Appellant***

Appellant denied the charges against her. She claimed that on March 24, 2004, somebody forcibly kicked the front door of her house and tried to break it open. When she opened the door, PI Barber pushed her aside and told his companions to move quickly. They went directly to her room; when PO2 Isip emerged therefrom seconds later, he was holding a substance that looked like *tawas*. SPO3 De Dios and SPO3 Salamida went in and out of her house. She maintained that the search warrant was shown to her only after an hour and that the sachets of *shabu* were planted. She argued that the police officers fabricated the charges against her since her family had a quarrel with a police officer named Rizalina Cuantero regarding the fence separating their houses. 

<sup>6</sup> Philippine National Police.

### ***The Ruling of the Regional Trial Court***

The RTC found appellant guilty beyond reasonable doubt of illegal sale and illegal possession of *shabu*. It declared that the prosecution ably established the elements of illegal sale and possession of *shabu* through the testimonies of its witnesses who arrested appellant after selling a sachet of the illegal drug in a “test-buy operation” and for possessing 11 sachets of the same drug in her house after enforcing a search warrant immediately thereafter. Appellant had no evidence that she had license or authority to possess the *shabu*.

The RTC ruled that the evidence sufficiently established the chain of custody of the sachets of *shabu* from the time they were bought from appellant and/or seized from her house, to its turnover to the PDEA and submission to the PNP Crime Laboratory for examination. The RTC rejected appellant’s defense of denial and frame-up in view of her positive identification by eyewitnesses as the criminal offender.

The RTC therefore sentenced appellant to life imprisonment and to pay a fine of ₱500,000.00 for the illegal sale of *shabu*. It also sentenced appellant to suffer the indeterminate prison term of eight (8) years and one (1) day, as minimum to fourteen (14) years, eight (8) months and one (1) day, as maximum and a fine of ₱300,000 for illegal possession of *shabu*.

From this judgment, appellant appealed to the CA. In her Brief,<sup>7</sup> she assailed the validity of the search warrant claiming that it was not issued by the RTC upon determination of probable cause. She argued that the “confirmatory test-buy” conducted by the poseur buyer and the confidential asset was not valid since they forced her to engage in a drug sale. She maintained that the *shabu* presented during trial was inadmissible in evidence due to several gaps in its chain of custody.

The Office of the Solicitor General (OSG) filed its Brief for the Appellee<sup>8</sup> praying for the affirmance of the appealed Decision. It argued that the evidence on which the RTC based its determination of probable cause was sufficient for the issuance of the search warrant. It asserted that the “test-buy operation” was an entrapment and not an inducement. The OSG maintained that the *shabu* confiscated from appellant was admissible in evidence since the prosecution established the proper chain of custody.



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<sup>7</sup> CA rollo, pp. 53-75.

<sup>8</sup> Id. at 37-50.

### ***The Ruling of the Court of Appeals***

The CA affirmed *in toto* the RTC ruling finding appellant guilty of unauthorized sale and possession of *shabu*. The CA ruled that all the elements for the sale of *shabu* were established during the “test-buy operation”. It held that the illegal sale of *shabu* was proven by SPO3 De Dios who participated in said operation as the designated poseur buyer. His offer to buy *shabu* with marked money and appellant’s acceptance by delivering the illegal drug consummated the offense. The CA likewise declared that the elements for possession of *shabu* were present in the case against appellant. After appellant’s arrest for illegal sale of *shabu*, a valid search resulted in the discovery of 11 sachets of *shabu* inside her house, which were under her possession and control. She did not have legal authority to possess the same and failed to overcome the presumption that she consciously knew she was in possession of the illegal drug discovered in her home.

The CA noted that the examination by the trial judge established probable cause in issuing the search warrant. The deposition of PO3 Salamida shows that he had personal knowledge of appellant’s drug activities, and the same served as basis for the finding of probable cause for the purpose of issuing a search warrant.

The CA was not swayed by appellant’s contention that the “test-buy operation” amounted to instigation since it is settled jurisprudence that a “decoy solicitation” is not tantamount to inducement or instigation. The CA was also unconvinced by appellant’s claim that the proof against her was inadmissible since the prosecution failed to show strict compliance with Section 21 of RA 9165 and its implementing rules on the custody and disposition of the evidence.

Appellant filed a Notice of Appeal.<sup>9</sup> On July 15, 2013,<sup>10</sup> the Court notified the parties to file their supplemental briefs. However, appellant opted not to file a supplemental brief since she had extensively argued her cause in her appellants’ brief.<sup>11</sup> For its part, the OSG manifested that it would not file a supplemental brief since its appellee’s brief filed in the CA had already discussed and refuted the arguments raised by appellant.<sup>12</sup>

### **Our Ruling**

*The RTC Issued A Search Warrant After Finding Probable Cause.*



<sup>9</sup> Id. at 129.

<sup>10</sup> *Rollo*, p. 18.

<sup>11</sup> Id. at 41-42.

<sup>12</sup> Id. at 21-24.

Appellant contends that there was no probable cause for the issuance of the search warrant. She claims that PI Barber had no personal knowledge of her alleged drug dealings.

There is no merit in this contention.

Probable cause for a valid search warrant is defined "as such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed, and that objects sought in connection with the offense are in the place sought to be searched."<sup>13</sup> The probable cause must be "determined personally by the judge, after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized."<sup>14</sup> Probable cause does not mean actual and positive cause, nor does it import absolute certainty. The determination of the existence of probable cause is concerned only with the question of whether the affiant has reasonable grounds to believe that the accused committed or is committing the crime charged.<sup>15</sup>

Here, the records reveal that the trial court issued the search warrant after deposing two witnesses, namely PI Barber and SPO3 Salamida. In particular, the deposition of SPO3 Salamida shows that he had personal knowledge of appellant's drug pushing activities which served as basis for the finding of probable cause for the issuance of the search warrant. Thus, whether or not PI Barber had personal knowledge of the illegal drug activities committed by appellant will not adversely affect the findings of probable cause for the purpose of issuance of search warrant.

*Confirmatory test-buy solicitation does not constitute instigation.*

Appellant argues that the "confirmatory test-buy" by the police officers was not valid since she was induced by the designated poseur buyer, SPO3 De Dios, and the confidential informant to sell the seized *shabu*.

There is no merit in this argument.

In inducement or instigation —



<sup>13</sup> *Dr. Prudente v. Executive Judge Dayrit*, 259 Phil. 541, 549 (1989).

<sup>14</sup> *Id.*

<sup>15</sup> *Columbia Pictures Inc. v. Court of Appeals*, 329 Phil. 875, 919 (1996).

the criminal intent originates in the mind of the instigator and the accused is lured into the commission of the offense charged in order to prosecute him. The instigator practically induces the would-be accused into the commission of the offense and himself becomes a co-principal. [This is distinguished from entrapment wherein] ways and means are resorted to for the purpose of capturing the lawbreaker *in flagrante delicto*.<sup>16</sup>

The “test-buy” operation conducted by the police officers is not prohibited by law. It does not amount to instigation. As in this case, the solicitation of drugs from appellant by the poseur buyer merely furnishes evidence of a course of conduct.<sup>17</sup> The police received an intelligence report that appellant habitually deals with *shabu*. They designated a poseur buyer to confirm the report by engaging in a drug transaction with appellant. There was no proof that the poseur buyer induced appellant to sell illegal drugs to him.

Notwithstanding the foregoing disquisition, appellant still deserves an acquittal as will be discussed below.

*The chain of custody of evidence was not established.*

Appellant impugns the prosecution’s failure to establish the charges of illegal sale and possession of *shabu* against her due to the gaps in the chain of custody and the assailable integrity of the evidence in view of non-compliance with Section 21, Article II of RA 9165.

There is merit in this protestation.

The offense of illegal sale of *shabu* has the following elements: “(1) the identities of the buyer and the seller, the object and consideration of the sale; and (2) the delivery of the thing sold and the payment therefor.”<sup>18</sup> On the other hand, the offense of illegal possession of *shabu* has the following elements: “(1) the accused is in possession of an item or an 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 said drug.”<sup>19</sup> In the prosecution for illegal sale and possession of *shabu*, there must be proof that these offenses were actually committed, coupled with the presentation in court of evidence of *corpus delicti*.<sup>20</sup>

<sup>16</sup> *People v. Gatong-o*, 250 Phil. 710, 711 (1988).

<sup>17</sup> *People v. Sta. Maria*, 545 Phil. 520, 528-529 (2007).

<sup>18</sup> *People v. Lorenzo*, 633 Phil. 393, 402 (2010).

<sup>19</sup> *Id.* at 403.

<sup>20</sup> *Id.*

In both illegal sale and illegal possession of [*shabu*,] conviction cannot be sustained if there is a persistent doubt on the identity of said drug. The identity of the [*shabu*] must be established with moral certainty. Apart from showing that the elements of possession or sale are present, the fact that the [*shabu*] illegally possessed and sold x x x is the same [*shabu*] offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.<sup>21</sup>

“The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.”<sup>22</sup>

Chain of custody is defined as “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.”<sup>23</sup> In *People v. Havana*,<sup>24</sup> the Court expounded on the custodial chain procedure in this wise:

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 in 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 the 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 obtains in case the evidence is susceptible of 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.

Thus, as a general rule, four links in the chain of custody of the confiscated item must be established:

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<sup>21</sup> Id.

<sup>22</sup> *People v. Havana*, G.R. No. 198450, January 11, 2016, 778 SCRA 524, 534.

<sup>23</sup> Id.

<sup>24</sup> Id. at 534-535.

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 from the forensic chemist to the court.<sup>25</sup>

Marking is the placing by the arresting officer or the poseur-buyer of his/her initials and signature on the items after they have been seized. It is the starting point in the custodial link. It is vital that the seized items be marked immediately since the succeeding handlers thereof will use the markings as reference.<sup>26</sup> The chain of custody rule also requires that the marking of the seized contraband be done “(1) in the presence of the apprehended violator, and (2) immediately upon confiscation.”<sup>27</sup>

In this case, the records do not show that the arresting officers marked the seized items with their initials in the presence of appellant and immediately upon confiscation. While PO2 Isip testified that the seized sachets of *shabu* were marked in the police station,<sup>28</sup> no evidence was presented to show that the marking was accomplished in the presence of appellant. Moreover, the author of the markings on said items was never identified. None of the police officers admitted placing the markings. There was therefore a complete absence of evidence to prove authorship of the markings.

While marking of the evidence is allowed in the nearest police station, this contemplates a case of warrantless searches and seizures.<sup>29</sup> Here, the police officers secured a search warrant prior to their operation. They therefore had sufficient time and opportunity to prepare for its implementation. However, the police officers failed to mark immediately the plastic sachets of *shabu* seized inside appellant's house in spite of an Inventory of Property Seized that they prepared while still inside the said house. The failure of the arresting officers to comply with the marking of evidence immediately after confiscation constitutes the first gap in the chain of custody.

The turnover of the seized *shabu* from the arresting officers to the investigating officer in the police station constitutes the second link in the chain of custody. In this regard, the Court takes note that the testimonies of the prosecution witnesses failed to identify the person to whom the seized items were turned over

<sup>25</sup> *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

<sup>26</sup> *People v. Alejandro*, 671 Phil. 33, 46 (2011).

<sup>27</sup> *Id.* at 47.

<sup>28</sup> TSN, July 12, 2005, pp. 107-108.

<sup>29</sup> *People v. Alcuizar*, 662 Phil. 794, 802 (2011).

at the police station. While SPO3 Salamida was identified as the property custodian of the police station, this does not necessarily mean that he is also the investigating officer. There is nothing in the records to substantiate this presumption. This total want of evidence gains importance considering that none of the arresting officers presented as witnesses identified the *shabu* presented during trial as the same *shabu* seized from appellant. Thus, the second link in the chain of custody is missing.

The transfer of the seized *shabu* from the investigating officer to the forensic chemist in the crime laboratory is the third link in the chain of custody. While the seized *shabu* was turned over by PI Barber to the PDEA, he no longer had any personal knowledge of the manner it was handled therein. He also did not identify the police officer in whose custody the seized sachets of *shabu* were placed at the PDEA. He left it to the responsibility of the PDEA to forward the seized *shabu* to the crime laboratory. The request for laboratory examination of the PDEA identifies the police officer who delivered the seized *shabu* as a certain SPO1 Asis, but he was not presented to testify that the *shabu* delivered to the crime laboratory was the same *shabu* confiscated from appellant. There is a third break in the chain of custody.

Nothing also can be gained from the testimony of the forensic chemist PSI Cruto. His testimony is not clear and positive since he failed to assert that the alleged packs of chemical substance presented for laboratory examination and tested positive for *shabu* were the very same substance allegedly recovered from appellant. His testimony was limited to the result of the examination he conducted and not on the source of the substance.

From the foregoing, it appears that no chain of custody was established at all. What we have here are individual links with breaks in-between which could not be seamlessly woven or tied together. The so-called links in the chain of custody show that the seized *shabu* was not handled properly starting from the actual seizure, to its turnover in the police station and the PDEA, as well as its transfer to the crime laboratory for examination. The Court therefore cannot conclude with moral certainty that the *shabu* confiscated from appellant was the same as that presented for laboratory examination and then presented in court.

It is indeed desirable that the chain of custody should be perfect and unbroken. In reality however, this rarely occurs. The legal standard that must therefore be observed "is the preservation of the integrity and the evidentiary value of the seized items as they will be used to determine the guilt or innocence of the accused."<sup>30</sup> Here, the Court finds that the apprehending officers failed to properly

<sup>30</sup> *People v. Mendoza*, supra note 1.

preserve the integrity and evidentiary value of the confiscated *shabu*. There are just too many breaks and gaps to the effect that a chain of custody could not be established at all. Failure of the prosecution to offer testimony to establish a substantially complete chain of custody of the *shabu* and the inappropriate manner of handling the evidence prior to its offer in court diminishes the government's chance of successfully prosecuting a drug case.<sup>31</sup>

Aside from the failure of the prosecution to establish an unbroken chain of custody, another procedural lapse casts further uncertainty on the identity and integrity of the subject *shabu*. This refers to the non-compliance by the arresting officers with the most basic procedural safeguards relative to the custody and disposition of the seized item under Section 21(1), Article II of RA 9165, which reads as follows:

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

(1) The apprehending team having initial custody and control of the drug 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.

Corollarily, Section 21(a) of the Implementing Rules and Regulations provides as follows:

Section 21(a) The apprehending officer/team having initial custody and control of the drug 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, the Department of Justice (DOJ), and a 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 office of the apprehending officer/team, whichever is practicable, in case

<sup>31</sup> *People v. Havana*, supra note 22 at 537.



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 seizure of and custody over said items.

In this case, the apprehending team never conducted a physical inventory of the seized items at the place where the search warrant was served in the presence of a representative of the Department of Justice, nor did it photograph the same in the presence of appellant after their initial custody and control of said drug, and after immediately seizing and confiscating the same. Neither was an explanation offered for such failure. While this directive of rigid compliance has been tempered in certain cases, “such liberality, as stated in the Implementing Rules and Regulations can be applied only when the evidentiary value and integrity of the illegal drug are properly preserved.”<sup>32</sup> Such an exception does not obtain in this case. “Serious uncertainty is generated on the identity of the [*shabu*] in view of the broken linkages in the chain of custody. [Thus,] the presumption of regularity in the performance of official duty accorded to the [apprehending officers] by the courts below cannot arise.”<sup>33</sup>

**WHEREFORE**, the appeal is **GRANTED**. The Decision of the Court of Appeals in CA-G.R. CR-HC No. 00744 dated June 23, 2011 is **REVERSED** and **SET ASIDE**. Appellant Myrna Gayoso y Arguelles is hereby **ACQUITTED** of the charges, her guilt not having been established beyond reasonable doubt.

The Superintendent for the Correctional Institute for Women is hereby **ORDERED** to immediately **RELEASE** the appellant from custody, unless she is held for another lawful cause.

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

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<sup>32</sup> Id. at 538-539.

<sup>33</sup> Id. at 539.

WE CONCUR:



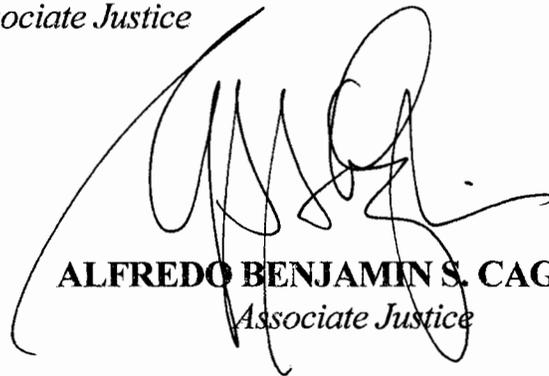
**MARIA LOURDES P. A. SERENO**

*Chief Justice*

*Chairperson*

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
*Associate Justice*

(On official leave)  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*



**ALFREDO BENJAMIN S. CAGUITA**

*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*

