



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 2, 2020** which reads as follows:*

“G.R. No. 202758 — INOCENCIO CLARETE Y BERNABE, petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.

After a careful review of the records of the instant case, the Court reverses and sets aside the Decision¹ dated January 26, 2012 (Decision) of the Court of Appeals – Tenth Division (CA), in CA-G.R. CR No. 29770, which affirmed the Decision² dated July 22, 2005 of Branch 205, Regional Trial Court of Muntinlupa City (RTC), in Criminal Case No. 04-149, finding petitioner Inocencio Clarete y Bernabe (Clarete) guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. (RA) 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002,” as amended. The Court acquits petitioner for failure of the prosecution to prove his guilt beyond reasonable doubt.

In cases involving dangerous drugs, the prosecution has the burden to prove compliance with the chain of custody requirements under Section 21, Article II of RA 9165, to wit: (1) the seized items must be inventoried and photographed immediately after seizure or confiscation; (2) the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and

- over – five (5) pages ...

155-C

¹ *Rollo*, pp. 49-64. Penned by CA Associate Justice Rosalinda Asuncion-Vicente, with Associate Justices Antonio L. Villamor and Ramon A. Cruz concurring.

² *Id.* at 68-A to 74. Penned by Judge Myrna V. Lim-Verano.

be given a copy of the same; and (3) the seized drugs must be turned over to a forensic laboratory within twenty-four 24 hours from confiscation for examination.³

Strict compliance with the foregoing requirements is necessary in protecting the integrity and identity of the *corpus delicti*, without which the crime of the illegal sale and illegal possession of dangerous drugs cannot be proved beyond reasonable doubt.⁴ Further, it is only by such strict compliance that the grave mischiefs of planting, switching and contamination of evidence may be eradicated and the legitimacy of the seizure operation may be proved. In other words, noncompliance with Section 21 is tantamount to a failure to establish an essential element of the crime, and will therefore engender the acquittal of an accused.⁵

Thus, in the cases of *People v. Garcia*,⁶ *People v. Royol*,⁷ *People v. Gabriel*,⁸ *People v. Del Rosario*,⁹ *People v. Ordiz*,¹⁰ *People v. Zapanta*,¹¹ and *People v. Saragena*,¹² the Court acquitted the accused therein, on reasonable doubt, because the police officers failed to comply with all of the foregoing requirements of Section 21. In these cases, no inventory and photographing of the seized items were conducted at the place of apprehension or at the nearest police station. Moreover, none of the required witnesses was present at or near the place of apprehension nor at the police station. The wholesale violation of Section 21 gave rise to reasonable doubt on the integrity and credibility of the seizure and confiscation of the prosecution's evidence, and effectively on the accusation that the accused-appellants in the said cases violated RA 9165.

Following the foregoing cases, Clarete should perforce be acquitted because the police officers in this case failed to comply with the mandatory requirements of Section 21.

- over -

155-C

³ *People v. Dela Cruz*, G.R. No. 234151, December 5, 2018, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64812>>.

⁴ See *People v. Que*, 824 Phil. 882 (2018).

⁵ *People v. Dela Cruz y De Guzman*, 744 Phil. 816, 827 (2014).

⁶ 599 Phil. 416 (2009).

⁷ G.R. No. 224297, February 13, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65005>>.

⁸ G.R. No. 228002, June 10, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65279>>.

⁹ G.R. No. 235658, June 22, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66342>>.

¹⁰ G.R. No. 206767, September 11, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65741>>.

¹¹ G.R. No. 230227, November 6, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66244>>.

¹² 817 Phil. 117 (2017).

This must be so, for there were no inventory and photographing of the evidence which were conducted either at the scene or even when Clarete was brought to the police station for investigation. The seized items were simply marked, but no inventory was conducted. To make matters worse, **none** of the three required witnesses was present at the police station when Clarete was brought there. In a long line of cases, that includes *People v. Mendoza*,¹³ *People v. Reyes*,¹⁴ *People v. Sagana*,¹⁵ *People v. Calibod*,¹⁶ *People v. Tomawis*,¹⁷ *Hedreyda v. People*,¹⁸ *People v. Sta. Cruz*,¹⁹ *Tañamor v. People*,²⁰ *People v. Arellaga*,²¹ and *People v. Casilag*,²² the Court has consistently emphasized that the presence of all the required witnesses at the time of the inventory and photography is mandatory and the law imposes the said requirement because their presence serves to protect against the possibility of planting, switching, contamination or loss of the seized drug. The presence of these disinterested witnesses would belie any doubt as to the source, identity, and integrity of the seized drug.

While jurisprudence provides that strict compliance with the requirements of Section 21 is not always possible given the wide range of varying field conditions, the Implementing Rules and Regulations of RA 9165 nonetheless state that “noncompliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.” Thus, for this saving clause to apply, the prosecution still needs to satisfactorily prove that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.²³

In the present case, the prosecution failed to establish any justifiable ground for the police officers’ failure to comply with the requirements of Section 21. There is even no showing from the

- over -

155-C

¹³ 736 Phil. 749 (2014).

¹⁴ 797 Phil. 671 (2016).

¹⁵ 815 Phil. 356 (2017).

¹⁶ 820 Phil. 1225 (2017).

¹⁷ 830 Phil. 385 (2018).

¹⁸ G.R. No. 243313, November 27, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66031>>.

¹⁹ G.R. No. 244256, November 25, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65946>>.

²⁰ G.R. No. 228132. March 11, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66109>>.

²¹ G.R. No. 231796. August 24, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66340>>.

²² G.R. No. 242159. February 5, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66075>>.

²³ *People v. Ceralde*, 815 Phil. 711, 721 (2017).

records of the case that the police officers exerted earnest efforts to comply with the requirements of the law. The prosecution and the police officers are compelled “not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstance, their actions were reasonable.”²⁴ Thus, the failure of the prosecution to justify or explain the police officers’ noncompliance in this case further underscores the doubt and suspicion about the integrity of the evidence of the *corpus delicti* allegedly confiscated from Clarete.

All told, the blatant and unjustified breaches of procedure committed by the police officers in the seizure, custody, and handling of the seized drug create more than reasonable doubt on Clarete’s guilt. This leaves the Court without any guarantee as to the integrity of the *corpus delicti* other than the self-serving assurances of the police officers. This is precisely the situation that RA 9165 seeks to prevent.²⁵ Thus, absent any proof, beyond reasonable doubt, of the *corpus delicti* of the crime charged, the presumption of accused-appellant’s innocence must be upheld.

At this juncture, the Court stresses that this wholesale violation of Section 21, not only gave rise to reasonable doubt on the *corpus delicti*, but it cast doubt on the integrity and credibility of the entire seizure operation. With the flagrant flouting of the law in this case, the Court is inclined to believe the version of the defense that the present charge was borne by a despicable extortion attempt on the accused-appellant. The Court thus directs the National Police Commission to conduct an investigation on the police officers involved in this case.

WHEREFORE, the instant appeal is hereby **GRANTED**. The Decision dated January 26, 2012 of the Court of Appeals – Tenth Division, in CA-G.R. CR No. 29770 is hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Inocencio Clarete y Bernabe is **ACQUITTED** for failure of the prosecution to establish his guilt beyond reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being lawfully held for another cause.

Let a copy of this Resolution be furnished the Superintendent of New Bilibid Prison, Muntinlupa City, for immediate implementation. The said Superintendent is **ORDERED** to **REPORT** to this Court

- over -

155-C

²⁴ *People v. Crispo*, 828 Phil. 416, 435 (2018).

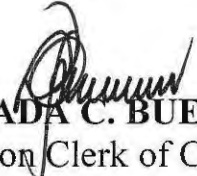
²⁵ *People v. Que*, supra note 4 at 907.

within five (5) days from receipt of this Resolution the action he has taken.

Further, the National Police Commission is hereby **DIRECTED** to **CONDUCT AN INVESTIGATION** of the police officers in respect of this case.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
6114101

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
155-C

Atty. Reynan G. Retazo
Counsel for Petitioner
Blk. 56, Lot 20, Soldiers Hills Village
1770 Muntinlupa City

Mr. Inocencio B. Clarete (x)
Petitioner
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Chairman
NATIONAL POLICE COMMISSION
DILG-NAPOLCOM Center
NAPOLCOM Building, EDSA cor. Quezon
Avenue, 1100 Quezon City

Court of Appeals (x)
Manila
(CA-G.R. CR No. 29770)

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

The Hon. Presiding Judge
Regional Trial Court, Branch 205
1770 Muntinlupa City
(Crim. Case No. 04-149)

The Director General (x)
Bureau of Corrections
1770 Muntinlupa City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Judgment Division (x)
Supreme Court

UR

