



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 18, 2020 which reads as follows:

“G.R. No. 200294 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus NOR BANDON y GUIMBELANG, JIMBO YASING y CUBA, ROGER SALIGIDAN y DAUL AND CRISTY SALIGIDAN y MOKALAM, accused; NOR BANDON y GUIMBELANG, ROGER SALIGIDAN y DAUL AND CRISTY SALIGIDAN y MOKALAM, accused-appellants.

After a careful review of the records of the instant case, the Court reverses and sets aside the Decision¹ dated May 23, 2011 (assailed Decision) of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02864, which affirmed with modification the Decision² dated December 5, 2006 rendered by the Regional Trial Court of Quezon City, Branch 224 (RTC), in Criminal Case No. Q-03-116670, finding accused-appellants Nor Bandon y Guimbelang, Roger Saligidan y Dagul and Cristy Saligidan y Mokalam guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002.” The Court acquits accused-appellants for failure of the prosecution to prove their guilt beyond reasonable doubt.

In securing a conviction under RA 9165, it must be shown that the identity and the integrity of the *corpus delicti*, which is the dangerous drug itself, have been preserved.³ This requirement necessarily arises from the illegal drug’s unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.⁴

- over – six (6) pages ...

¹ *Rollo*, pp. 2-15. Penned by Associate Justice Noel G. Tijam with Associate Justices Marlene Gonzales-Sison and Leoncia R. Dimagiba, concurring.

² *CA rollo*, pp. 12-19. Penned by Presiding Judge Tita Marilyn Payoyo-Villordon.

³ *People v. Siaton*, G.R. No. 208353, July 4, 2016, 795 SCRA 478, 489.

⁴ *Id.*, citing *People v. Beran*, G.R. No. 203028, January 15, 2014, 714 SCRA 165, 189.

As such, the Court has consistently emphasized that there must be strict compliance with the prescribed measures during and after the seizure of dangerous drugs and related paraphernalia, during the custody and transfer thereof for examination, and at all times up to their presentation in court.⁵

These measures are clearly defined under Section 21, Article II of RA 9165,⁶ the applicable law at the time of the commission of the alleged crime. Section 21 and its Implementing Rules and Regulations (IRR) mandate the police officers to conduct a physical inventory of the seized items and the photographing of the same immediately after seizure and confiscation, 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 be given a copy of the same.⁷

The Court recognizes, however, that strict compliance with the legal prescriptions of RA 9165 may not always be possible. The IRR of RA 9165, in fact, offers some flexibility in complying with its express requirements, *i.e.*, “non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.” However, 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.⁸

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⁵ *People v. Nacua*, G.R. No. 200165, January 30, 2013, 689 SCRA 819, 832.

⁶ The said section 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 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[.]

⁷ *People v. De Leon*, G.R. No. 214472, November 28, 2018, 887 SCRA 349, 363.

⁸ *People v. Ceralde*, G.R. No. 228894, August 7, 2017, 834 SCRA 613, 625.

In a long line of cases that includes *People v. Mendoza*,⁹ *People v. Reyes*,¹⁰ *People v. Sagana*,¹¹ *People v. Guieb*,¹² *People v. Tomawis*,¹³ *People v. Lim*,¹⁴ *People v. Miranda*,¹⁵ *People v. Dayon*,¹⁶ *Tañamor v. People*,¹⁷ *People v. Arellaga*,¹⁸ and *People v. Casilang*,¹⁹ this Court acquitted the accused because police officers failed to comply with the three-witness rule under Section 21. The Court has consistently emphasized that the presence of the enumerated witnesses — namely, an elected official, as well as a representative from the DOJ and the media — during the seizure and inventory of the seized items is required by law to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.²⁰ Worse, the prosecution in these cases did not even bother to explain the police officers' failure to secure the presence of the required witnesses, which rendered the saving clause inapplicable. This underscored the doubt and suspicion about the integrity and credibility of the seizure and confiscation of the prosecution's evidence and thus, on the accusation that accused violated RA 9165.

Following the foregoing cases, accused-appellants should perforce be acquitted because the police officers in this case also failed to secure the presence of the mandatory witnesses during the seizure and inventory of the seized items.

While PO2 Jorge Izon (PO2 Izon), the designated poseur-buyer, testified that he immediately marked and inventoried the items confiscated from accused-appellants,²¹ the records are bereft of any evidence showing that the marking and physical inventory was made in the presence of the accused-appellants or their representatives, an

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⁹ G.R. No. 192432, June 23, 2014, 727 SCRA 113.

¹⁰ G.R. No. 199271, October 19, 2016, 806 SCRA 513.

¹¹ G.R. No. 208471, August 2, 2017, 834 SCRA 225.

¹² G.R. No. 233100, February 14, 2018, 855 SCRA 620.

¹³ G.R. No. 228890, April 18, 2018, 862 SCRA 131.

¹⁴ G.R. No. 231989, September 4, 2018, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>>.

¹⁵ G.R. No. 218126, July 10, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65602>>.

¹⁶ G.R. No. 229669, November 27, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65994>>.

¹⁷ G.R. No. 228132, March 11, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66109>>.

¹⁸ G.R. No. 231796, August 24, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66340>>.

¹⁹ G.R. No. 242159, February 5, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66075>>.

²⁰ *People v. Guieb*, supra note 12, at 637.

²¹ *Rollo*, p. 4; *CA rollo*, p. 13.

elected public official, a representative from the media, and a representative from the DOJ. To be sure, the Inventory Receipt²² dated April 13, 2003 was signed by PO2 Izon and two security guards at the place where the buy-bust operation was allegedly conducted. Since none of the required witnesses was present at the place of seizure and confiscation, there was no unbiased witness to prove the veracity of the events that transpired on the day of the incident or whether the said buy-bust operation actually took place.

The Court also notes that no photographs of the seized items were presented by the prosecution. In the case of *People v. Supat*,²³ the Court emphasized that “the taking of photographs of the seized drugs is not a menial requirement that can be easily dispensed with. Photographs provide credible proof of the state or condition of the illegal drugs and/or paraphernalia recovered from the place of apprehension to ensure that the identity and integrity of the recovered items are preserved.”²⁴

Moreover, the saving clause does not apply in this case because the prosecution failed to establish any justifiable reason for the police officers’ noncompliance with the requirements of Section 21. There is even no showing from the records of the case that the police officers exerted earnest efforts to comply with the requirements of the law. In *People v. Lim*,²⁵ the Court held that earnest effort to secure the attendance of the necessary witnesses must be proven. Considering that a buy-bust operation is a planned activity, and police officers are given sufficient time to make necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the prescribed requirements of Section 21, 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 circumstances, their actions were reasonable.²⁶ This the prosecution miserably failed to do.

The Court is thus appalled on how the courts *a quo* could have relied heavily on the testimonies of the police officers when the unjustified breaches of the mandated procedure militate against the presumption of regularity of official duty and in fact, lend credence to

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²² Records, p. 129.

²³ G.R. No. 217027, June 6, 2018, 865 SCRA 45.

²⁴ Id. at 67.

²⁵ Supra note 14.

²⁶ Id.

accused-appellants' claim that there was no legitimate buy-bust operation conducted against them. The Court reiterates that the presumption of regularity in the performance of duty cannot overcome the stronger presumption of innocence in favor of the accused.²⁷ Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right to be presumed innocent.


All told, the prosecution failed to prove the *corpus delicti* of the offense of sale of illegal drug due to the multiple unexplained breaches of procedure committed by the police officers in the seizure, custody, and handling of the seized drug. Thus, absent any proof, beyond reasonable doubt, of the *corpus delicti* of the crime charged, the presumption of accused-appellants innocence must be upheld.

WHEREFORE, the instant appeal²⁸ is hereby **GRANTED**. The Decision dated May 23, 2011 of the Court of Appeals in CA-G.R. CR-HC No. 02864 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellants NOR BANDON y GUIMBELANG, ROGER SALIGIDAN y DAUL and CRISTY SALIGIDAN y MOKALAM are hereby **ACQUITTED** for failure of the prosecution to establish their guilt beyond reasonable doubt, and are **ORDERED IMMEDIATELY RELEASED** from detention, unless they are being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished the Superintendents of Correctional Institution for Women, Mandaluyong City, and Bureau of Corrections, Muntinlupa City, for immediate implementation. The said Superintendents are **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action they have taken.

SO ORDERED." *Carandang, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *gfb 5/16*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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²⁷ *Tuates v. People*, G.R. No. 230789, April 10, 2019, 901 SCRA 493, 501.

²⁸ *Rollo*, pp. 16-23.



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Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 02864)

The Hon. Presiding Judge
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