



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 26, 2020 which reads as follows:

“G.R. No. 213417 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus EDGAR GAMO y PIMENTEL, accused-appellant.

After a careful review of the records of the instant case, the Court reverses and sets aside the Decision¹ dated January 29, 2014 of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 05704, which affirmed the Decision² dated June 6, 2011 rendered by the Regional Trial Court of Tanauan City, Batangas, Branch 83 (RTC) in Criminal Case No. 04-11-1905, finding accused-appellant Edgar Gamo y Pimentel (Gamo) guilty beyond reasonable doubt of violating Section 5 in relation to Section 26(B), Article II of Republic Act No. (R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” as amended.

The Court acquits Gamo for failure of the buy-bust team to comply with the mandatory requirements under Section 21, R.A. 9165.

Section 21, Article II of R.A. 9165, outlines the procedure which the police officers must strictly follow to preserve the integrity of the confiscated drugs and/or paraphernalia used as evidence. The provision requires that: **(1) the seized items must be inventoried and photographed immediately after seizure or confiscation; and (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**

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¹ *Rollo*, pp. 2-13. Penned by Associate Justice Jose C. Reyes, Jr. (now a member of this Court), with Associate Justices Mario V. Lopez (now a member of this Court) and Socorro B. Inting, concurring.

² *CA rollo*, pp. 58-67. Penned by Presiding Judge Marjorie T. Uyengco-Nolasco.

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 and the seized drugs must be turned over to the forensic laboratory within twenty-four (24) hours from confiscation for examination.

In the case at bar, the police officers committed several patent errors in the conduct of the buy-bust operation:

First, the arresting officers failed to photograph the seized drug as required by the law. The physical inventory was not done immediately after the seizure at the place of the incident and in the presence of Gamo, but at the Philippine Drug Enforcement Agency (PDEA) office at Camp Vicente Lim in Canlubang.³

Second, although the inventory was done in the presence of two persons, Ed Amoroso and Simeon Reparon of Brgy. Mayapa, Calamba City, there was no mention as to whether these persons were public officials. There was also no representative from the media or the DOJ present at the time of arrest and during the marking and conduct of the inventory of the seized drug.⁴ The two witnesses were merely called-in at the PDEA office after the buy-bust operation.⁵

Time and again, the Court has emphasized that the presence of the required witnesses at the time of the apprehension of the accused and inventory of the seized items is mandatory and necessary to protect against the possibility of planting, contamination, or loss of the seized drugs.⁶

Third, following the Implementing Rules and Regulation of R.A. 9165, the courts may allow a deviation from the mandatory requirements of Section 21 in exceptional cases, where the following requisites are present: (1) the existence of justifiable grounds to allow departure from the rule on strict compliance; and (2) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.⁷ For the said saving clause to apply, the prosecution must first recognize the lapse or lapses on the part of the buy-bust team and justify or explain the same.⁸ However, in the

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³ TSN, August 19, 2008, p. 21.

⁴ *Rollo*, pp. 5-6.

⁵ TSN, August 19, 2008, pp. 39-40.

⁶ *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131, 149-150.

⁷ COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, AS AMENDED by R.A. 10640, § 21(1).

⁸ *People v. Reyes*, 797 Phil. 671, 690 (2016).

present case, the prosecution neither recognized, much less tried to justify or explain, the buy-bust team's deviation from the procedure laid out in Section 21.

Lastly, the CA erred in relying on the presumption of regularity in the performance of official duty despite the lapses in the procedures undertaken by the buy-bust team.⁹ In *People v. Claudel*,¹⁰ the Court elucidated that "the presumption of regularity in the performance of duty cannot overcome the stronger presumption of innocence in favor of the accused [;otherwise], a mere rule of evidence will defeat the constitutionally enshrined right to be presumed innocent."¹¹

All told, the integrity and evidentiary value of the *corpus delicti* have been compromised, thus Gamo must perforce be acquitted.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated January 29, 2014 of the Court of Appeals in CA-G.R. CR.-H.C. No. 05704 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **EDGAR GAMO y PIMENTEL** is **ACQUITTED** of the crime charged on the ground of reasonable doubt and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished the Superintendent of the New Bilibid Prison, Muntinlupa City, for immediate implementation. The said Superintendent is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he has taken.

SO ORDERED." *Reyes, J., Jr., Lopez, JJ., took no part; Delos Santos, Hernando, JJ., were designated Additional Members per Raffle dated February 19, 2020.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

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⁹ *Rollo*, p. 12.

¹⁰ G.R. No. 219852, April 3, 2019, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65135>>.

¹¹ *Id.*, citing *People v. Catalan*, 699 Phil. 603, 621 (2012).

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

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 05704)

The Hon. Presiding Judge
Regional Trial Court, Branch 83
Tanauan City, 4232 Batangas
(Crim. Case No. 04-11-1905)

PUBLIC ATTORNEY'S OFFICE
Special and Appealed Cases Service
Counsel for Accused-Appellant
DOJ Agencies Building
Diliman, 1101 Quezon City

Mr. Edgar P. Gamo (x)
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

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

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