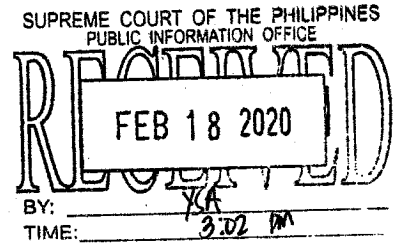




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated February 5, 2020 which reads as follows:*

**“G.R. No. 245973 — PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus JOSEPH ENOVAL y BALMACEDA and EMMANUEL BALAGAT y MENDONES, accused-appellants.**

After a careful review of the records of the instant case, the Court reverses and sets aside the Decision<sup>1</sup> dated August 3, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09426, which affirmed the Consolidated Decision<sup>2</sup> dated June 8, 2017 rendered by the Regional Trial Court of Caloocan City, Branch 127 (RTC) in Criminal Case Nos. C-91860, C-91861, and C-91862, which found accused-appellants Joseph Enoval y Balmaceda (accused-appellant Enoval) and Emmanuel Balagat y Mendones (accused-appellant Balagat) guilty for violating Sections 5, 11, and 15, Article II of Republic Act No. (RA) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” as amended.

The Court acquits accused-appellants Enoval and Balagat for failure of the prosecution to prove their guilt beyond reasonable doubt.

In the conduct of buy-bust operations, Section 21 of RA 9165 provides that: (1) the seized items must be marked, inventoried and photographed immediately after seizure or confiscation; and (2) **the marking, 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**

- over – four (4) pages ...

123

<sup>1</sup> *Rollo*, pp. 3-17. Penned by Associate Justice Rosmari D. Carandang (now a Member of this Court), with Associate Justices Elihu A. Ybañez and Pedro B. Corales, concurring.

<sup>2</sup> *CA rollo*, pp. 48-72. Penned by Presiding Judge Victoriano B. Cabanos.

**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 thereof.**

The Court has held that the presence of the witnesses from the DOJ, media, and from public elective office is *necessary* to protect against the possibility of planting, contamination, or loss of the seized drug.<sup>3</sup> Using the language of the Court in *People v. Mendoza*,<sup>4</sup> without the *insulating presence* of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drug, the evils of switching, “planting” or contamination of the evidence that had tainted previous buy-bust operations would not be averted, negating the integrity and credibility of the seizure and confiscation of the subject drug specimen that was evidence of the *corpus delicti*, and thus adversely affecting the trustworthiness of the incrimination of the accused.<sup>5</sup>

In the instant case, it is not disputed by the prosecution that the marking of three plastic sachets of *shabu* allegedly retrieved from accused-appellants were done without the presence of any of the required witnesses.<sup>6</sup> Further, the rest of the inventory process was undertaken without the presence of a representative from the DOJ and an elected public official, as mandatorily required under Section 21 of RA 9165. It is readily admitted by the prosecution that only a representative of the media, *i.e.*, one Maeng Santos, witnessed the inventory and photographing of the allegedly retrieved drug specimens.<sup>7</sup>

Concededly, however, there are instances wherein departure from the aforesaid mandatory procedures is permissible. Section 21 of the Implementing Rules and Regulations of RA 9165 provides 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 seizures of and custody over said items.”

For this provision to be effective, however, the prosecution must first (1) recognize any lapse on the part of the police officers and (2) be able to justify the same.<sup>8</sup>

- over -

123

<sup>3</sup> *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131, 149; italics and underscoring supplied.

<sup>4</sup> 736 Phil. 749 (2014).

<sup>5</sup> *Id.* at 761; italics supplied.

<sup>6</sup> *Rollo*, p. 7.

<sup>7</sup> *Id.*

<sup>8</sup> *People v. Alagarme*, 754 Phil. 449, 461 (2015).

Applying the foregoing in the instant case, it must be stressed that the prosecution failed to recognize the authorities' failure to observe the mandatory requisites under Section 21 of RA 9165. Moreover, the prosecution failed to make any justification for such failure.

Breaches of the procedure outlined in Section 21 committed by the police officers, left unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt against accused-appellants as the integrity and evidentiary value of the *corpus delicti*, *i.e.*, three plastic sachets of *shabu* have been compromised.<sup>9</sup>

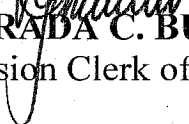
In light of the foregoing, the Court restores the liberty of the accused-appellants.

**WHEREFORE**, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated August 3, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09426 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellants Joseph Enoval y Balmaceda and Emmanuel Balagat y Mendones are **ACQUITTED** of the crimes charged on the ground of 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 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.”**

Very truly yours,

  
LIBRADA C. BUENA  
Division Clerk of Court  
123

- over -

<sup>9</sup> *People v. Sumili*, 753 Phil. 342, 352 (2015).



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

Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 09426)

The Hon. Presiding Judge  
Regional Trial Court, Branch 127  
1400 Caloocan City  
(Crim. Case Nos. C-91860 to C-91862)

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

Messrs. Joseph B. Enoval &  
Emmanuel M. Balagat (x)  
Accused-Appellants  
c/o The Director General  
Bureau of Corrections  
1770 Muntinlupa City

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

123

UR

WAF