



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 17, 2021 which reads as follows:

“G.R. No. 249741 – ANDRES CRUZ, JR. y TEOBENCO, petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.

RESOLUTION

After a careful review of the records of the instant case, the Court **GRANTS** the Petition for Review on *Certiorari* under Rule 45¹ filed by the petitioner Andres Cruz, Jr. y Teobenco (Cruz). The Court **REVERSES** and **SETS ASIDE** the Decision² dated June 3, 2019 and Resolution³ dated October 2, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 41269. The CA affirmed the Joint Decision⁴ dated December 21, 2017 of Branch 75, Regional Trial Court of San Mateo, Rizal (RTC) in Criminal Case No. 15216 titled “*People of the Philippines v. Alinaser Liwaleg y Macog and Andres Cruz, Jr. y Teobenco,*” finding Cruz, and his co-accused Alinaser Liwaleg y Macog (Liwaleg) guilty beyond reasonable doubt for violation of Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as *The Comprehensive Dangerous Drugs Act of 2002*.

In so disposing, the Court considers, as is true in all appeals from a conviction of a crime, any fact or circumstance in favor of the accused regardless of whether such fact or circumstance was raised as

¹ *Rollo* pp. 12-35.

² *Id.* at 37-56. Penned by Associate Justice Priscilla J. Baltazar-Padilla with Associate Justice Geraldine C. Fiel-Macaraig and Associate Justice Louis P. Acosta concurring.

³ *Id.* at 57-58.

⁴ *Id.* at 81-101. Penned by Presiding Judge Beatrice A. Cunanan-Medina.

a defense or assigned as an error and despite the similar pronouncement of guilt by both the trial court and the appellate court.⁵

In cases involving dangerous drugs, the Court must determine whether the dangerous drug, the *corpus delicti* of the crime, reached the court with its identity and integrity preserved.⁶ This must be established with moral certainty.⁷ In arriving at this certainty, the very nature of prohibited drugs, they being susceptible to tampering and error, circumscribes the burden of the State in prosecuting the crime.⁸

The prosecution's burden in proving the *corpus delicti* is discharged by a faithful compliance of Section 21, Article II of R.A. No. 9165, the law applicable at the time of the commission of the offense. Prior to its amendment by R.A. No. 10640, Section 21 and its implementing rules and regulation provide the procedures that the apprehending team should observe in the handling of the seized dangerous drugs.

The requirements laid down in Section 21 are mandatory in nature.⁹ In several cases which include *People v. Garcia*,¹⁰ *People v. Royol*,¹¹ *People v. Gabriel*,¹² *People v. Del Rosario*,¹³ *People v. Ordiz*,¹⁴ *People v. Zapanta*,¹⁵ and *People v. Saragena*,¹⁶ the Court acquitted the accused due to failure of the police officers to comply with all the requirements of Section 21. In these cases, the wholesale violation of Section 21 led to an obvious failure to establish the *corpus delicti* and, hence, to the acquittal of the accused based on reasonable doubt.

⁵ *People v. Lopez*, G.R. No. 247974, July 13, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66294>>; see *People v. Dahil* 750 Phil. 212, 225 (2015).

⁶ *People v. Crispo*, 828 Phil. 416, 429 (2018); *People v. Sanchez*, 827 Phil. 457, 465 (2018); *People v. Magsano*, 826 Phil. 947, 959 (2018); *People v. Manansala*, 826 Phil. 578, 586 (2018).

⁷ *People v. Gamboa*, G.R. No. 233702, June 20, 2018, 867 SCRA 548, 563, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

⁸ *People v. Lopez*, supra note 5.

⁹ *People v. Cardenas*, G.R. No. 229046, September 11, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65761>>.

¹⁰ 599 Phil. 416 (2009).

¹¹ G.R. No. 224297, February 13, 2019, 893 SCRA 54.

¹² G.R. No. 228002, June 10, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65279>>.

¹³ G.R. No. 235658, June 22, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66342>>.

¹⁴ G.R. No. 206767, September 11, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65741>>.

¹⁵ G.R. No. 230227, November 6, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66244>>.

¹⁶ 817 Phil. 117 (2017).

Parsing the mandatory procedure in Section 21, the apprehending team shall, immediately after seizure and confiscation, conduct a physical inventory and photograph the seized items in the presence of the accused or the person/s from whom the items were 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 of the same, and, within 24 hours from confiscation, the seized drugs must be turned over to the PNP Crime Laboratory for examination.¹⁷

The apprehending officers failed to comply with the three-witness rule.

Since the events relative to the handling of the drugs seized from the accused were committed in 2013, prior to the amendments ushered in by R.A. No. 10640, the presence of all three witnesses during the conduct of inventory and photographing is required. As borne by the records, however, the apprehending officers failed to comply with this mandatory requirement.

The Court notes that the arrest of the accused and the seizure of the dangerous drugs were a result of a purported buy-bust operation which was preceded by surveillance activities over the course of a month.¹⁸ It is therefore baffling that the apprehending officers never sought to secure the presence of the three insulating witnesses for the buy-bust operation knowing fully well the stringent requirements of Section 21 of R.A. No. 9165.

While the Court has refrained from imposing a certain method to be followed in the conduct of buy-bust operations¹⁹ and has generally left to the discretion of police authorities the selection of effective means to apprehend drug dealers,²⁰ the buy-bust operations' peculiar characteristics of having the benefit of planning and coordination²¹ impels the Court to adopt an exacting approach in scrutinizing compliance with statutory law and jurisprudential safeguards.²²

¹⁷ R.A. No. 9165, Art. II, Sec. 21 (1) and (2).

¹⁸ *Rollo*, p. 83; TSN dated May 5, 2013, p. 5.

¹⁹ *Castro v. People*, 597 Phil. 722, 730-731 (2009).

²⁰ *Quinicot v. People*, 608 Phil. 259, 274-275 (2009).

²¹ *People v. Luna*, 828 Phil. 671, 688 (2018).

²² *People v. Umipang*, 686 Phil. 1024 (2012).

As admitted by the apprehending officers, the sole witness was a Barangay *Kagawad* who was called in after the arrest of Cruz as well as the seizure and marking of the alleged seized items.²³ Moreover, the other two witnesses required by law to be present were absent.

The prosecution offered no explanation as to why the other two witnesses were not present, nor was there any evidence offered showing that the apprehending officers sought the presence of all three witnesses during the conduct of the buy-bust operation. In a long line of cases including *People v. Mendoza*,²⁴ *People v. Reyes*,²⁵ *People v. Sagana*,²⁶ *People v. Calibod*,²⁷ *People v. Tomawis*,²⁸ *Hedreyda v. People*,²⁹ *People v. Sta. Cruz*,³⁰ *Tañamor v. People*,³¹ *People v. Arellaga*,³² and *People v. Casilang*,³³ the Court acquitted the accused for failure of the apprehending team in securing the presence of the required insulating witnesses. The same conclusion should likewise obtain in this case.

The inventory was not signed in the presence of the accused. The accused was not made to sign the inventory form.

A perusal of the Inventory Receipt³⁴ prepared by the buy-bust team reveals that it did not contain the requisite signatures of the “accused or the person/s from whom such items were confiscated

²³ TSN dated March 27, 2017, p. 6.

²⁴ 736 Phil. 749 (2014).

²⁵ 797 Phil. 671 (2016).

²⁶ 815 Phil. 356 (2017).

²⁷ 820 Phil. 1225 (2017).

²⁸ 830 Phil. 385 (2018).

²⁹ G.R. No. 243313, November 27, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66031>>.

³⁰ G.R. No. 244256, November 25, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65946>>.

³¹ G.R. No. 228132, March 11, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66109>>.

³² G.R. No. 231796, August 24, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66340>>.

³³ G.R. No. 242159, February 5, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66075>>.

³⁴ RTC Records, p. 16.

and/or seized, or his/her representative or counsel” as required by Section 21 of R.A. No. 9165.³⁵ The signatures appearing in the Inventory Receipt were those of the members of the buy-bust team and the *Barangay Kagawad*. It should be noted, however, that the *Barangay Kagawad* did not witness the marking the inventory of the seized items but was called in merely to sign the inventory form. Again, this is another unexplained and unjustified lapse from the requirements of Section 21, R.A. No. 9165.

In *People v. Villarta*,³⁶ the Court found unjustified the buy-bust team’s failure to secure the signature of the accused for the inventory receipt. Similarly, in *People v. Zakaria*,³⁷ *People v. Bermejo*,³⁸ and *People v. Lumumba*,³⁹ the Court acquitted the accused since the prosecution failed to show, among other lapses committed, that the inventory was done and signed in the presence of the accused.

There are unexplained lapses in the chain of custody.

Over and above the aforementioned procedural lapses, the Court notes serious gaps and conflicting testimonies in the chain of custody as the confiscated items changed hands up from their seizure up to their presentation before the trial court.

In his direct examination, SPO1 Rogelio A. Cruz (SPO1 Cruz), a member of the buy-bust team, testified that he was in possession of the items seized from the accused from the time of confiscation and while they proceeded to the police station.⁴⁰ From the police station, SPO1 Cruz testified that the items remained in his possession until they were delivered to the crime laboratory in Taytay, Rizal.⁴¹ However, on cross-examination, SPO1 Cruz ultimately admitted that there was a gap in his possession:

³⁵ R.A. No. 9165, Art. II, Sec. 21.

³⁶ 828 Phil. 259 (2018).

³⁷ 699 Phil. 367 (2012).

³⁸ G.R. No. 199813, June 26, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65336>>.

³⁹ G.R. No. 232354, August 29, 2018, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64660>>.

⁴⁰ TSN dated October 26, 2015, p. 4.

⁴¹ TSN dated October 26, 2015, p. 5.

[Cross-examination of SPO1 Cruz, dated October 26, 2015]

Q: So, when you arrived at the police station, you are now changing your answer that you turned over to the Police Investigator all evidence?

A: We were the one in possession of the recovered evidence, Ma'am.

Q: So, which is which now? You turned over or you did not turn it over. What did you do, Mr. Witness?

A: We turned over, Ma'am.

Q: There is no Chain of Custody Form to that effect?

A: None, Ma'am.

When confronted with this inconsistency in his testimony, SPO1 Cruz merely reiterated that he did, in fact, turn over the seized items to the police investigator upon arriving at the police station.⁴² This police investigator, however, was not presented in court to testify on his custody of the items before handing them back to SPO1 Cruz for delivery to the crime laboratory. This unexplained gap is precisely what Section 21 of R.A. No. 9165 seeks to avoid and which the prosecution failed to overcome.

The Court further notes that the prosecution failed to present the Forensic Chemist to testify on the manner by which the seized items were received, tested, and presented in court. No witness was offered to identify that the items presented in court were the exact same items received and tested by the crime laboratory. The records reveal that the prosecution's request for stipulation on the Forensic Chemist's testimony was admitted by the defense only insofar as to the existence of the Chemistry Report.⁴³ And yet, the prosecution rested its case without offering any testimonial evidence on the last chain in the chain of custody. No explanation was proffered as to why the key individuals who had custody over the drugs at certain periods were not identified and/or not presented as witnesses.⁴⁴

In *People v. Morales*,⁴⁵ the Court acquitted the accused since "the evidence presented by the prosecution failed to reveal the identity

⁴² TSN dated October 26, 2015, p. 15.

⁴³ See TSN dated March 27, 2017, p. 15.

⁴⁴ *People v. Barba*, G.R. No. 182420, 593 SCRA 711, 719.

⁴⁵ 630 Phil. 215 (2010).

of the person who had custody and safekeeping of the drugs after its examination and pending presentation in court.”⁴⁶ Hence, in a string of cases such as in *Catuiran v. People*,⁴⁷ *Carino v. People*,⁴⁸ *People v. Garcia*,⁴⁹ *People v. Obmiranis*,⁵⁰ the Court declared that the failure of the prosecution to offer the testimony of key witnesses to establish a sufficiently complete chain of custody, and the irregularity which characterized the handling of the evidence before it was finally offered in court, fatally conflicts with every proposition relative to the culpability of the accused.

Strict adherence with Section 21, Article II of R.A. No. 9165 remains to be the rule. This is a singular and rigid standard.⁵¹ Anything less than strict adherence would automatically be a deviation from the chain of custody rule that would only pass judicial muster in the most exacting of standards following the twin-requirements of: (1) existence of justifiable reasons, and (2) preservation of the integrity and evidentiary value of the seized items.⁵² In the case at bar, the prosecution failed on both counts.

The acquittal of the accused should benefit his co-accused.

On a final note, Cruz’s co-accused in this case, Liwaleg, must also be acquitted in view of Section 11 (a), Rule 122 of the Revised Rules of Criminal Procedure, as amended, which states:

Section 11. *Effect of appeal by any of several accused.* —

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

While it is true that only Cruz successfully perfected his appeal, it is likewise true that an appeal in a criminal proceeding throws the entire case out in the open, including those not raised by the parties.⁵³

⁴⁶ Id. at 236.

⁴⁷ 605 Phil. 646 (2009).

⁴⁸ 600 Phil. 433 (2009).

⁴⁹ 599 Phil. 416 (2009).

⁵⁰ 594 Phil. 561 (2008).

⁵¹ *People v. Lopez*, supra note 5.

⁵² Implementing Rules and Regulations of R.A. No. 9165, Sec. 21 (a).

⁵³ See *Benabaye v. People*, 755 Phil. 144, 157 (2015).

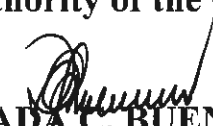
Considering that a favorable judgment shall benefit the co-accused who did not appeal,⁵⁴ Liwaleg should likewise be acquitted herein.

WHEREFORE, all premises considered, the petition is **GRANTED** and the Decision dated June 3, 2019 and Resolution dated October 2, 2019 of the Court of Appeals in CA-G.R. CR No. 41269 are hereby **REVERSED** and **SET ASIDE**. Petitioner Andres Cruz, Jr. y Teobenco and his co-accused Alinaser Liwaleg y Macog are hereby **ACQUITTED** of the crime charged for failure of the prosecution to prove 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 Director General of the New Bilibid Prison, Muntinlupa City for immediate implementation. The said Director General is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he has taken.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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⁵⁴ See *People v. Lumaya*, 827 Phil. 473 (2018); see also *People v. Libre*, G.R. No. 235980, August 20, 2018, 878 SCRA 260, 276.

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