

Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 29, 2020** which reads as follows:*

**“G.R. No. 219878 — PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus LORNA DIAZ y ROXAS, accused-appellant.**

After a careful review of the records of the instant case, the Court reverses and sets aside the assailed Decision<sup>1</sup> dated July 14, 2014 of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 04314, which affirmed the Decision<sup>2</sup> dated November 3, 2009 rendered by Branch 23, Regional Trial Court of Manila (RTC) in Criminal Case No. 03-217378, finding accused-appellant Lorna Diaz y Roxas (Diaz) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” as amended. The Court acquits Diaz for failure of the prosecution to prove her guilt beyond reasonable doubt.

In the conduct of buy-bust operations, Section 21 of R.A. 9165 provides that: (1) the seized items 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 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 thereof.

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<sup>1</sup> *Rollo*, pp. 2-18. Penned by Associate Justice Michael P. Elbinias, with Associate Justices Isaias P. Dicedican and Victoria Isabel A. Paredes concurring.

<sup>2</sup> *CA rollo*, pp. 70-76. Penned by Judge Caroline Rivera-Colasito.

In the instant case, it is not denied that the seized items were only marked, then turned over immediately to the investigator, and then sent to the laboratory for examination.<sup>3</sup> Both requirements of the law — the inventory and the same being done in the presence of the required witnesses — were thus not complied with. **The seized items were never inventoried, and neither was the marking of the same at the very least witnessed by any of the required witnesses: an elected official, a representative from the media, and a representative from the DOJ.**

The Court has held that the presence of these witnesses is necessary to protect against the possibility of planting, contamination, or loss of the seized drug.<sup>4</sup> Using the language of the Court in *People v. Mendoza*,<sup>5</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 drugs, the evils of switching, “planting” or contamination of the evidence that had tainted buy-bust operations would not be averted, negating the integrity and credibility of the seizure and confiscation of the subject items that were evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.<sup>6</sup>

Concededly, however, there are instances wherein departure from the aforesaid mandatory procedures are permissible. Section 21 of the Implementing Rules and Regulations of R.A. 9165 provides that “noncompliance of 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.”

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>7</sup>

Applying the foregoing in the instant case, it must be stressed that the prosecution failed to recognize the authorities’ failure to obtain the mandatory witnesses during the marking and inventory of the seized items. Moreover, the prosecution failed to make any justification for the non-observance of the law.

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<sup>3</sup> *Rollo*, p. 5; *CA rollo*, p. 24.

<sup>4</sup> *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131, 149.

<sup>5</sup> 736 Phil. 749 (2014).

<sup>6</sup> *Id.* at 764.

<sup>7</sup> See *People v. Alagarme*, 754 Phil. 449, 461 (2015).

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 the accused as the integrity and evidentiary value of the *corpus delicti* would have been compromised.<sup>8</sup>

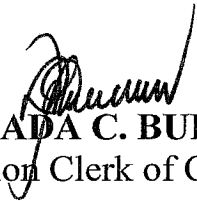
In light of the foregoing, the Court restores the liberty of Diaz.

**WHEREFORE**, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated July 14, 2014 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04314 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Lorna Diaz y Roxas is **ACQUITTED** of the crime charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless she 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 Correctional Institution for Women, Mandaluyong 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/she has taken.

**SO ORDERED.”**

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court

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

Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 04314)

The Hon. Presiding Judge  
Regional Trial Court, Branch 23  
1000 Manila  
(Crim. Case No. 03-217378)

- over -

<sup>8</sup> See *People v. Sumili*, 753 Phil. 342, 350 (2015).