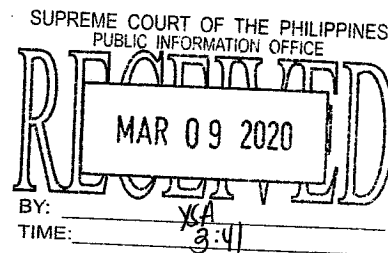




Republic of the Philippines  
Supreme Court  
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **January 8, 2020** which reads as follows:

**“G.R. No. 224181 – REYNALDO BUENAFLOR y AMION, petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.**

Before the Court is a petition for review on *certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated November 13, 2015 and Resolution<sup>3</sup> dated April 11, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06221, which affirmed *in toto* the Decision<sup>4</sup> dated April 11, 2013 of the Regional Trial Court, Branch 93 of San Pedro, Laguna (RTC) in Criminal Case No. 6940-SPL, finding petitioner Reynaldo Buenaflor y Amion (Buenaflor) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165 (RA 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.

*The Facts*

In an Information<sup>5</sup> dated May 13, 2009, Buenaflor was charged with violation of Section 5, Article II of RA 9165, the accusatory portion of which reads:

That on or about February 17, 2009, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the said accused without any legal authority, did then and there willfully, unlawfully and feloniously sell, pass and deliver, one (1) small heat-sealed

- over – ten (10) pages ...

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<sup>1</sup> Rollo, pp. 3-41.

<sup>2</sup> Id. at 42-55. Penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Normandie B. Pizarro and Carmelita Salandanan Manahan, concurring.

<sup>3</sup> Id. at 57-60.

<sup>4</sup> Records, pp. 237-241. Penned by Judge Francisco Dizon Paño.

<sup>5</sup> Id. at 1.

transparent plastic sachet of METHAMPHETAMINE HYDROCHLORIDE commonly known as “shabu”, a dangerous drug, weighing zero point zero one (0.01) gram.

CONTRARY TO LAW.<sup>6</sup>

Buenaflor pleaded not guilty to the offense charged.<sup>7</sup>

The facts established by the evidence for the prosecution were summarized by the CA as follows:

PO Jeffrey Sarinas (PO Sarinas) testified that at about 12:00 midnight of February 17, 2009, he, SPO4 Melchor dela Peña (SPO4 dela Peña), PO Manuel Abutal (PO Abutal), PO Exequiel Galicia, PO Avila and PO Santos were on duty at the Anti-Illegal Drugs, Intelligence Department of San Pedro Municipal Station, when an asset/informant reported about an illegal drug trade being operated by one alias “Rey.” SPO4 dela Peña prepared the *Pre-Operation and Coordination Report* which was forwarded to the Philippine Drug Enforcement Agency (PDEA). Thereafter, a team composed of SPO4 dela Peña, PO Avila, PO Sarinas, PO Santos, PO Galicia and the civilian informant was immediately organized, with PO Sarinas designated to act as the poseur-buyer. PO Sarinas was given three (3) Php100.00 bills to be used as buy-bust money. It was further agreed that the pre-arranged signal would be a missed call to PO Abutal. The team proceeded to [Buenaflor’s residence] at *Pulong Kendi*. PO Sarinas and the informant went ahead of the team who placed themselves some ten (10) meters away from the residence of the subject. The informant knocked at [Buenaflor’s] door and introduced PO Sarinas as the buyer. The latter said “*pa-score three hundred pesos*” simultaneously giving to [Buenaflor] the buy-bust money. [Buenaflor] went back inside the house and when he returned, he gave to PO Sarinas a plastic sachet containing a white substance. At that point, PO Sarinas gave the pre-arranged signal and the rest of the team proceeded to the subject’s residence and arrested the latter. The P300.00 buy-bust money was recovered from [Buenaflor’s] pocket and together with the confiscated buy-bust money and the plastic sachet, he was brought to the police station for further investigation. SPO4 dela Peña prepared an inventory and took photographs of the recovered plastic sachet marked at the police station as “RB-B” while PO Sarinas brought the plastic sachet to the PNP Crime Laboratory at Camp Vicente Lim.

PO Abutal corroborated the testimony of SPO4 dela Peña. He attested that after [Buenaflor] came out of the house, he saw PO Sarinas hand over the buy-bust money to the former and after which, [Buenaflor] entered the house. Thereafter, he saw

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<sup>6</sup> Id.

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

[Buenaflor] hand over a plastic sachet to PO Sarinas who then placed a miscall on his cellphone to PO Abutal. The buy-bust team immediately rushed to the place and arrested [Buenaflor]. PO Abutal attested that he recovered the buy-bust money from the left pocket of [Buenaflor] and thereafter, they brought the latter to the police station for investigation. A *Certificate of Inventory* was correspondingly prepared as witnessed by media representative Nick Luares.<sup>8</sup>

On the other hand, the version of the defense was summarized as follows:

x x x Alvin Buenaflor (Alvin), son of [Buenaflor], testified that he was at home sleeping at the time of the incident and was awakened by a commotion inside their house. He alleged that upon opening the door of his grandmother's house, he saw his father lying face down on the floor with one policeman stepping on the head of his father. He was about to approach his father when Chief of Police Col. Ramon Ramirez (Col. Ramirez) blocked him and poked an armalite at him. He asked for the search or arrest warrant but he was told not to interfere otherwise he [would] be implicated. He was not also given any reply on why his father was brought to the police sub-station in Barangay Roque, prompting him to file a case against the police officers before the National Police Commission (NAPOLCOM).

Sofia Buenaflor (Sofia), wife of [Buenaflor], also testified that at about 11:00 in the evening of the buy-bust operation, she and her husband were about to sleep when she was awakened by a commotion at their gate. Peeking through their window, she saw a man with an armalite rifle pointed at their gate. She woke up her husband. Thereafter, the men outside forcibly opened the gate and door of their house. [Buenaflor] asked what their purpose was and the men told him that they were looking for his son Jeffrey Buenaflor (Jeffrey). He also asked for a search warrant and told Col. Ramirez that Jeffrey was not living with them anymore. Col. Ramirez, however, boxed [Buenaflor] and when asked by Alvin for the warrant, the police officer pointed the firearm to his head and said: "*This is a warrant.*" Sofia denied that her husband was selling *shabu*.

x x x [Buenaflor] testified that it was about 11:00 in the evening of February 16, 2015 when his wife woke him up because of the banging on their gate. He went out and saw Col. Ramirez already inside their house. The latter inquired about Jeffrey's whereabouts but [Buenaflor] replied that he [did] not know. He was punched by Col. Ramirez on the left portion of his nose and when his son Alvin arrived and asked for a warrant, Col. Ramirez

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<sup>8</sup> Id. at 43-45.

told him: “*Putangina mo baka madamay ka dito?*” [Buenaflor] was brought to the police detachment at San Roque, San Pedro, Laguna.<sup>9</sup>

### *Ruling of the RTC*

The RTC found Buenaflor guilty beyond reasonable doubt for illegal sale of dangerous drug.<sup>10</sup> The RTC held that the culpability of Buenaflor was clearly established by the testimonies of the police officers, who are presumed to have regularly performed their duties.<sup>11</sup>

Moreover, the RTC held that Buenaflor’s feeble defense of denial cannot stand against the positive testimony of the prosecution witnesses. The trial court also ruled that testimonies of defense witnesses are not only biased but are also inconclusive.<sup>12</sup>

Thus, the dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered finding accused Reynaldo Buenaflor y Amion guilty beyond reasonable doubt of the crime of violation of Section 5 of Republic Act No. 9165 otherwise known as The Comprehensive Dangerous Drugs Act of 2002 and hereby sentencing him to suffer the penalty of life imprisonment and to pay a fine in the amount of Five Hundred Thousand (P500,000.00) Pesos and to pay the costs.

X X X X

SO ORDERED.<sup>13</sup>

### *Ruling of the CA*

On appeal, the CA, in the assailed Decision, sustained Buenaflor’s conviction. The CA found that the identity of the seized item was preserved because the prosecution was able to establish an unbroken chain of custody from the moment it was obtained from Buenaflor up to the time it was presented in court.<sup>14</sup> The CA further held that Buenaflor bears the burden of showing that the evidence was tampered or meddled with in order to overcome the presumption that public officers properly discharged their duties, which he failed to do in this case.<sup>15</sup>

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<sup>9</sup> Id. at 45-46.

<sup>10</sup> Records, p. 241.

<sup>11</sup> Id. at 240.

<sup>12</sup> Id.

<sup>13</sup> Id. at 241.

<sup>14</sup> *Rollo*, p. 49.

<sup>15</sup> Id.

The CA found Buenaflor's defense of denial self-serving and weak vis-à-vis the positive testimony of the prosecution witnesses.<sup>16</sup> The CA also did not give credence to Buenaflor's uncorroborated allegation that the members of the buy-bust team had long standing grudge against his son, who was their real and main target on that fateful night.<sup>17</sup> The CA stressed that when police officers involved in the buy-bust operation have no motive to testify against the accused, the court should uphold the presumption that they have performed their duties regularly.<sup>18</sup>

Hence, the instant petition.

### *Issue*

Whether the RTC and CA erred in convicting Buenaflor for violation of Section 5, Article II of RA 9165.

### *The Court's Ruling*

Preliminarily, the Court notes that Buenaflor availed of the wrong remedy in elevating his case before this Court. As a general rule, appeals of criminal cases are brought to this Court by filing a petition for review on *certiorari* under Rule 45 of the Rules of Court, except when the CA imposed a penalty of "*reclusion perpetua*, life imprisonment or a lesser penalty," in which case, the appeal shall be made by a notice of appeal filed before the CA.<sup>19</sup>

In this case, the CA affirmed *in toto* the RTC Decision, which imposed a penalty of life imprisonment. Thus, instead of filing the

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<sup>16</sup> Id. at 52.

<sup>17</sup> Id. at 53.

<sup>18</sup> Id.

<sup>19</sup> A.M. No. 00-5-03-SC, RE: AMENDMENTS TO THE REVISED RULES OF CRIMINAL PROCEDURE TO GOVERN DEATH PENALTY CASES, Rule 124, Sec. 13 (2004) states:

Sec. 13. *Certification or appeal of case to the Supreme Court.* — (a) Whenever the Court of Appeals finds that the penalty of death should be imposed, the court shall render judgment but refrain from making an entry of judgment and forthwith certify the case and elevate its entire record to the Supreme Court for review.

(b) Where the judgment also imposes a lesser penalty for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more severe offense for which the penalty of death is imposed, and the accused appeals, the appeal shall be included in the case certified for review to the Supreme Court.

(c) **In cases where the Court of Appeals imposes *reclusion perpetua*, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment may be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals.** (Emphases and underscoring supplied)

instant petition for review on *certiorari* before the Court, Buenaflor should have filed a notice of appeal with the CA. However, in the interest of substantial justice and in order to finally settle all the substantive issues raised by Buenaflor, the Court will treat the instant petition as an ordinary appeal.<sup>20</sup>

In his petition, Buenaflor claims that both the RTC and CA blindly adhered to the presumption of regularity in the performance of official duty when the facts and evidence show that the buy-bust team failed to comply with the mandatory requirements of Section 21 of RA 9165. Buenaflor insists that the failure of the buy-bust team to strictly follow the procedure confirms his claim that there was really no buy-bust operation that took place.

The Court rules in favor of Buenaflor.

The RTC and CA committed gross error in relying on the presumption of regularity in the performance of official duty when the records are replete with indicia of the serious lapses committed by the police officers. Judicial reliance on the presumption of regularity in the performance of official duty despite the lapses in the procedures undertaken by the agents of the law is fundamentally unsound because the lapses themselves are affirmative proofs of irregularity.<sup>21</sup>

The Court reiterates that the presumption of regularity in the performance of official duty cannot overcome the stronger presumption of innocence in favor of the accused.<sup>22</sup> Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right to be presumed innocent.<sup>23</sup>

In this case, the presumption of regularity in the performance of official duty does not arise because of the buy-bust team's unjustified deviations from the prescribed chain of custody rule under Section

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<sup>20</sup> See *Ramos v. People*, 803 Phil. 775, 783 (2017).

<sup>21</sup> *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131, 160.

<sup>22</sup> *People v. Escaran*, G.R. No. 212170, June 19, 2019, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65324>>.

<sup>23</sup> *Id.*

21<sup>24</sup> of RA 9165, the applicable law at the time of the commission of the alleged crime.

Section 21 requires the members of the buy-bust team to conduct the 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.<sup>25</sup>

The requirements of Section 21 of RA 9165 are matters of substantive law and cannot be brushed aside as simple procedural technicality because they ensure the identity and integrity of the seized drug — the very *corpus delicti* of the offense charged.

Nonetheless, the Court has recognized that in varying field conditions, compliance with Section 21 may not always be possible. In fact, the Implementing Rules and Regulations (IRR) of RA 9165 states 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.” However, for this saving clause to apply, the prosecution must first recognize the lapse or lapses on the part of the buy-bust team and thereafter, justify or explain the same.<sup>26</sup>

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<sup>24</sup> 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[.]

<sup>25</sup> *People v. Rivera*, G.R. No. 225786, November 14, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64854>>.

<sup>26</sup> *People v. Fatallo*, G.R. No. 218805, November 7, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64858>>, citing *People v. Reyes*, 797 Phil. 671, 690 (2016).

In the present case, records show that only a representative from the media was present when the inventory of the drug was conducted at the police station.<sup>27</sup>

In *People v. Supat*,<sup>28</sup> the Court emphasized that the presence of the witnesses from the DOJ, media and from public elective office is necessary to protect and guard against the possibility of planting, contamination, or loss of the seized drug. The three witnesses must be present not only during the inventory, but more importantly, at the time of the warrantless arrest to belie any doubt as to the source, identity and integrity of the seized drug.<sup>29</sup> The presence of these insulating witnesses would also controvert the usual defense of frame-up as the witnesses would be able to testify that the buy-bust operation and inventory of the seized drug, which should be made immediately after the seizure and confiscation, were done in their presence in accordance with Section 21 of RA 9165.<sup>30</sup>

Here, as the only one required witness present during the buy-bust operation did not testify for the prosecution, 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.

Also, the police officers unjustifiably failed to mark the seized drug immediately after seizure or apprehension.<sup>31</sup> The marking after seizure is the starting point in the custodial link. It is vital that the seized contraband be immediately marked by the apprehending officer to prevent the evils of switching, planting or contamination of evidence. While marking is not found in RA 9165, marking is an integral part of the required inventory of the seized items and this Court has consistently held, long before the passage of RA 9165, that **“failure of the authorities to immediately mark the seized drugs would cast reasonable doubt on the authenticity of the corpus delicti.”**<sup>32</sup>

The foregoing circumstances do not only militate against the presumption of regularity but also lends credence to Buenaflor’s claim that there was no legitimate buy-bust operation, and that a group of

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<sup>27</sup> See TSN, March 16, 2010, pp. 10-11.

<sup>28</sup> G.R. No. 217027, June 6, 2018, 865 SCRA 45, 68.

<sup>29</sup> Id. at 68.

<sup>30</sup> See *People v. Tomawis*, supra note 21, at 150.

<sup>31</sup> See TSN, February 23, 2010, p. 9.

<sup>32</sup> *People v. De Leon*, G.R. No. 214472. November 28, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64849>>, citing *People v. Dahil*, 750 Phil. 212, 232 (2015).



policemen went inside Buenaflor's house looking for his son; and when Buenaflor replied he did not know the whereabouts of his son, he was punched on his face and was brought to the police detachment at San Roque, San Pedro, Laguna.<sup>33</sup>

Moreover, the saving clause under the IRR of RA 9165 does not apply in this case. The prosecution was not able to establish a justifiable ground for the buy-bust team's non-compliance with the requirements of Section 21. In *People v. De Leon*,<sup>34</sup> it has been ruled that the prosecution must not only state reasons for the police officers' 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.<sup>35</sup> Mere statements that the witnesses are unavailable, without any showing of serious attempts to contact them, as in this case,<sup>36</sup> are unacceptable as justified grounds for non-compliance.

All told, the Court finds that 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 buy-bust team in the seizure, custody and handling of the seized drug. Buenaflor must perforce be acquitted.

**WHEREFORE**, the Petition is hereby **GRANTED**. The Decision dated November 13, 2015 and Resolution dated April 11, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06221 is hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner **REYNALDO BUENAFLOR y AMION** 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 sent to 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.

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<sup>33</sup> See TSN, February 15, 2012, pp. 4-6.

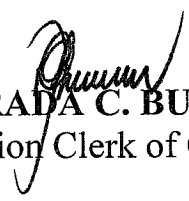
<sup>34</sup> Supra note 32.

<sup>35</sup> Id.

<sup>36</sup> TSN, August 18, 2010, p. 12.

**SO ORDERED.” Lopez, J., on official leave.**

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court <sup>1/7X</sup>  
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