



Republic of the Philippines
Supreme Court
Manila
THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
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NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **October 12, 2020**, which reads as follows:*

“G.R. No. 228891 – (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. ELEONOR BACANI *y* REMOLACIO, *accused-appellant*). – This resolves the appeal filed by accused-appellant Eleonor Bacani *y* Remolacio (Bacani) affirming the Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04143 dated May 31, 2011 for her conviction² in the Regional Trial Court (RTC) of Quezon City, Branch 95 for violation of Section 5 of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Antecedents

Bacani was charged with violation of Section 5 of R.A. No. 9165 in an Information which reads:

That on or about the 29th day of May, 2004 in Quezon City, Philippines, the said accused, not being authorized to sell, dispense, deliver, transport, or distribute any dangerous drug, did then and there, willfully, and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction twenty four point sixteen (24.16) grams of white crystalline substance containing Methylamphetamine Hydrochloride a dangerous drug.

CONTRARY TO LAW.³

Upon arraignment, Bacani pleaded not guilty. The parties did not make any stipulation or admission of facts during the pre-trial; however, during the trial, the prosecution and defense counsels agreed to dispense with the testimonies of the

¹ *Rollo*, pp. 2-19; penned by Associate Justice Normandie B. Pizarro, with Associate Justices Amelita G. Tolentino and Rodil V. Zalameda (now a Member of this Court), concurring.

² *CA rollo*, pp. 60-71; penned by Judge Henri Jean Paul B. Inting (now a Member of this Court).

³ *Id.* at 60.

forensic chemical officer, Police Senior Inspector Sandra Decena-Go,⁴ and of the barangay official who witnessed the inventory of the alleged seized drugs,⁵ after both sides agreed to stipulate on the matters to be testified upon by said witnesses. The prosecution offered the testimonies of Police Officer 2 Peter Sistemio (PO2 Sistemio) and Police Chief Inspector Ricardo Basa (PCI Basa). The prosecution also offered documentary evidence on the circumstances of the arrest.⁶ The defense relied solely on Bacani's testimony.

Version of the Prosecution

The Office of the Solicitor General summarizes the facts in its brief before the CA, which it adopted *in toto*,⁷ as follows:

On May 29, 2004, a confidential informant arrived in the PDEA Special Enforcement Services, PDEA Bldg., NIA Northside, Brgy. Pinyahan, Quezon City and reported to P/Sr. Insp. (PSI) Jaime Santos that a certain "Baby" was engaged in illegal drug activities at the vicinity of Sgt. Reyes, Quezon City. The informant, upon instructions of PSI Santos and in the presence of PO2 Peter Sistemio, contacted "Baby" (identified in open court as accused-appellant Eleonor Bacani) through cell phone for the purchase of 25 grams of shabu worth Php 50,000.00 that same day. The POEA agents immediately formed a buy bust team and conducted a briefing[.] PSI Santos, the team leader, designated PO2 Sistemio, as poseur buyer, and P/Chief Insp. (PCI) Ricardo Basa as back up.

At around 11:30 p.m. the team proceeded to the agreed meeting place at Violeta St., Roxas District, Quezon City for the buy-bust operation. PO2 Sistemio, the informant and PCI Basa were on a green Mitsubishi Gallant and PSI Santos and the rest of the team were in a white Toyota Revo for back-up.

After a few minutes from the group's arrival in the designated meeting place, the confidential informant called Eleonor Bacani, alias "Baby". She approached the green Gallant, boarded it, and talked with the confidential informant. The informant introduced PO2 Sistemio as the buyer of shabu. PCI Basa alighted from the vehicle, opened the hood and pretended to be checking the engine. After a brief conversation on the price of the shabu, Eleonor Bacani handed to PO2 Sistemio one (1) piece of transparent plastic bag containing white crystalline substance. In return, after Eleonor Bacani demanded for the payment, PO2 Sistemio handed to accused Eleonor Bacani the plastic bag containing the marked money. Upon handing the marked money to Eleonor Bacani, PO2 Sistemio introduced himself as a PDEA agent. PCI Ricardo Basa, upon hearing of their code "PDEA agent", arrested Eleonor Bacani and took the buy-bust money from her. PCI Basa then informed Eleonor Bacani of the reason of the arrest and apprised her of her constitutional rights.

Thereafter, the PDEA agents brought accused Eleonor Bacani to Barangay Roxas, Quezon City for the inventory of seized evidence. PO2 Sistemio prepared the Certificate of Inventory and marked the transparent plastic bag with

⁴ Id. at 61.

⁵ Id. at 66. The trial court allowed the defense to conduct a cross-examination. TSN Folder, pp. 203-216.

⁶ Records, pp. 4-15, 35, 50, 90 & 178.

⁷ *Rollo*, p. 29, Manifestation and Motion (In Lieu of Supplemental Brief).

his initial and date of arrest "PVS 5/29/04". The Certificate of Inventory was signed by Barangay Kagawad Dr. Carmela Gotladera as witness after she was presented the evidence seized. Likewise, PSI Santos photographed the seized items together with accused Bacani, PO2 Sistemio and Barangay Kagawad Gotladera.

The PDEA agents brought Eleonor Bacani to the PDEA office with the confiscated items. PO2 Sistemio prepared the Request for Laboratory Examination, signed by PSI Santos, and personally delivered the evidence to the PNP Crime Laboratory for examination. In the Chemistry Report No. D-231-04, the transparent plastic bag containing white crystalline substance with markings "PVS 5/29/04" proved to be positive to the test for the presence of Methylamphetamine hydrochloride. PO2 Sistemio likewise prepared the Booking Sheet Report, Letter Referral and the Affidavit of Arrest.

In the Regional Trial Court, Eleonor Bacani was positively identified by the prosecution witnesses PO2 Sistemio and PCI Basa as the one who sold the subject shabu to the poseur-buyer.⁸

Version of the Defense

Bacani interposed a defense of denial and frame-up. Her testimony was summarized by the trial court as follows:

On the witness stand, accused Eleonor Bacani testified that on May 29, 2004, she was at home anxiously waiting for her U.P. student daughter to arrive considering that it was already late in the evening. While waiting, she went out of the house and walked her dog along Scout Reyes, Roxas District, Quezon City. There, she passed by a parked car with its engine hood opened. A policeman who was in civilian clothes and with a gun tucked in his waist-line pants was repairing the engine. Then the policeman approached her and asked for the direction of Violeta Street. She told the policeman that they had missed Violeta St. Suddenly, two men rushed to her direction - one came from the rear of the vehicle and the other from the front. The two men dragged her inside their vehicle where three men were already inside. The driver then started the vehicle and proceeded towards the direction of Roces Avenue. The vehicle cruised along East Avenue where she saw the S.S.S. building. While inside the vehicle, the policemen asked her if she knew someone who would replace her ("pamalit ulo"). She answered in the negative. Then she heard the policemen talking about spot promotions, more arrests; and quotas to reach. Thereafter, the policemen brought her to the PDEA office at NIA Road, Quezon City. At the PDEA office, the policemen took down her personal circumstances: then they brought her to Camp Crame for drug testing. After Camp Crame, the policemen brought her to the Barangay Hall of Roxas District where only the barangay tanods were present. The police officers called up the OIC of the Barangay, Kagawad Dra. Gotladera.

Accused Eleonor Bacani further testified that when Dra. Gotladera arrived at the barangay hall, [PO2] Sistemio requested Dr. Gotladera to sign the inventory Report regarding the shabu allegedly seized from her. Dra. Gotladera asked the police officers where the item was taken and where the operation happened considering that she was not at the scene of the crime. Despite her

⁸ CA rollo, pp. 149-152.

apprehensions regarding the buy-bust operation of the policemen against the accused, Dra. Gotladera signed the Inventory Report. After that, accused Eleonor Bacani stayed in the Barangay Hall for about 2 1/2 hours. After which, the policemen brought her back to the PDEA office. Upon arriving at the PDEA office, the policemen allowed her to use the phone to call her family. The next day her children arrived and asked her what happened.

Accused Eleonor Bacani furthermore testified that the police officers brought her to the Kamuning Market, Quezon City where she heard the police saying something about "palit ulo". The policemen explained to her that she needed to point to a person in exchange for her release. The police officers told her that they needed to reach their quota; that they needed to make more arrests of drug pushers. Thereafter, the policemen brought her back to the PDEA office.⁹

Ruling of the RTC

The trial court found Bacani guilty as charged, finding that the elements of the crime of illegal sale of dangerous drugs were established by the testimony of PO2 Sistemio. Furthermore, Bacani was positively identified by both prosecution witnesses as the person who sold the marked article to the poseur-buyer, PO2 Sistemio. The trial court found no evidence to support Bacani's defense of denial and "*palit-ulo*", as she admitted in open court that she neither knew or had any quarrels with the arresting officers. Finally, the trial court held that the arresting officers are entitled to the presumption of regularity in the performance of official duties, as the defense was unable to show any improper motive on the part of the arresting officers. The trial court disposed of the case thus:

WHEREFORE, judgment is hereby rendered finding or violation of accused ELEONOR BACANI Y REMOLACIO "GUILTY" beyond reasonable doubt for violation of Section 5, Article II of R.A. 9165 or illegal selling of twenty four point sixteen (24.16) grams of methylamphetamine hydrochloride, a dangerous drug and she is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a FINE of FIVE HUNDRED THOUSAND PESOS (Php 500,000.00).

The piece of evidence subject matter of this case is hereby ordered to be safely delivered to the Philippine Drug Enforcement Agency for proper disposition.

IT IS SO ORDERED.¹⁰

Ruling of the CA

The CA found no cogent or compelling reasons to disturb the RTC's factual findings. The prosecution was able to establish, through PO2 Sistemio's testimony, that Bacani handed PO2 Sistemio a transparent plastic bag which contained a white crystalline substance, after which PO2 Sistemio gave Bacani the marked

⁹ Id. at 67-68.

¹⁰ Id. at 71.

money. Thereafter, PO2 Sistemio and PCI Basa apprehended Bacani, inventoried the contents of the plastic bag, and had these tested. Coupled with the presentation of the contents of the plastic bag in court, which was tested positive for shabu, these evidence prove beyond reasonable doubt that Bacani was arrested in a legitimate buy-bust operation. The appellate court likewise held that the chain of custody of the *corpus delicti* was adequately established; and that Bacani's defense of frame-up was unsubstantiated. The CA disposed of the case thus:

WHEREFORE, the appeal is DENIED. The assailed judgment is AFFIRMED *in toto*. Costs against the Accused-Appellant.

SO ORDERED.¹¹

Hence, the present appeal.¹²

The Court's Ruling

An appeal against a judgment of conviction opens the whole case for review; and all errors, whether or not assigned, are open to appreciation and correction,¹³ regardless of whether or not they were raised for the first time on appeal.¹⁴ In the case at bar, records reveal that the seizure and custody of the alleged narcotic substance sold by Bacani to PO2 Sistemio was attended by irregularities and defects which are fatal to the prosecution's case. This Court must acquit.

The crime of illegal sale of dangerous drugs, as defined and penalized in Article II, Section 5 of R.A. No. 9165, has two elements: (a) the identities of the buyer and the seller, the object of sale, and consideration; and (b) the delivery of the thing sold and the payment.¹⁵ In *People v. Abdulah*, this Court held that the crime of illegal sale of dangerous drugs cannot be proven without the presentation and identification of the dangerous drug.¹⁶ As the *corpus delicti* of the crime, the existence and custody of the dangerous drug subject of the transaction must be established beyond reasonable doubt.¹⁷

To this end, Section 21 of R.A. No. 9165 prescribes the guidelines to be observed by law enforcement officers in the processing and custody of dangerous drugs. Section 21(1) provides:

¹¹ *Rollo*, pp. 18-19.

¹² *Id.* at 20.

¹³ *People v. Fornillos*, G.R. No. 231991, January 27, 2020, citing *People v. De Guzman*, G.R. No. 234190, October 1, 2018.

¹⁴ *People v. Jagdon*, G.R. No. 234648, March 27, 2019, citing *People v. Miranda*, G.R. No. 229671, January 31, 2018.

¹⁵ *People v. Alon-Alon*, G.R. No. 237803, November 27, 2019.

¹⁶ G.R. No. 243941, March 11, 2020, citing *People v. Nacua*, 702 Phil. 739 (2013).

¹⁷ See *People v. Crispo, et al.*, 828 Phil. 416, 436 (2018).

SECTION 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;

In *People v. Pantallano*,¹⁸ the Court acquitted the accused who was arrested in a buy-bust operation in 2012, because the inventory of the seized narcotics was signed only by a *barangay kagawad*. The Court elucidated on the importance of the three-witness requirement as laid down in the foregoing provision, *viz.*:

Since the offenses subject of this appeal were committed before the amendment introduced by R.A. 10640, the old provisions of Section 21 and its Implementing Rules and Regulations (IRR) should apply, *viz.*:

(a) The apprehending officer/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. Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further that non-compliance with these requirements under justifiable grounds, as long as the integrity and 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.

The use of the word “shall” means that compliance with the foregoing requirements is mandatory. Section 21 (a) clearly states that physical inventory and the taking of photographs must be made in the presence of the accused or his/her representative or counsel and the following indispensable witnesses: (1) an elected public official, (2) a representative from the DOJ and (3) a representative from the media. The Court, in *People v. Mendoza*, explained that the presence of these witnesses would preserve an unbroken chain of custody and prevent the possibility of tampering with or “planting” of evidence, *viz.*:

¹⁸ G.R. No. 233800, March 6, 2019.

[W]ithout the insulating presence of the representative from the media or the [DOJ], or any elected public official during the seizure and marking of the [seized drugs], the evils of switching, 'planting' or contamination of the evidence that had tainted the buy-busts conducted under the regime of [RA] 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the [said drugs] that were evidence herein of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.

As culled from the records and highlighted by the testimonies of the witnesses themselves, only one out of three of the required witnesses was present during the inventory stage. There were no representatives from the DOJ and the media. Neither was it shown nor alleged by the arresting officers that earnest efforts were made to secure the attendance of these witnesses. To the Court's mind, the lower courts relied so much on the narration of the prosecution witnesses that the integrity and evidentiary value of the seized drugs were preserved without taking into account the weight of these procedural lapses. (Citations omitted)

In the case at bar, there is no dispute that: 1) the buy-bust operation which led to Bacani's arrest occurred in 2004, before the amendments to R.A. No. 9165, Section 21 were introduced; and 2) the Certification as to the items confiscated from Bacani's person by the apprehending team was signed only by *Barangay Kagawad* Ma. Carmela Gotladera (*Kagawad* Gotladera).¹⁹ On the face of the Certification, there are three blanks provided for signatures, in line with Section 21(1), of which only one was filled up by the signature of *Kagawad* Gotladera.²⁰ Such a major lapse must be properly and satisfactorily justified by the arresting officers because it affects the integrity of the *corpus delicti*.²¹

Here, the Affidavit of Poseur-Buyer executed jointly by PO2 Sistemio and PCI Basa merely states that "a Certificate of Inventory of seized evidence was issued at the place of arrest and was duly witnessed by barangay officials in the area,"²² without an iota of explanation as to why the requirements of Section 21(1) were not met. Similarly, bereft of any justification for their non-compliance are the testimonies of PO2 Sistemio and PCI Basa, *viz.*:

[Prosecutor]: When the accused demanded for the payment what happened next?

[PO2 Sistemio]: I handed to her the plastic bag containing the marked money, sir.

[Prosecutor]: And after Baby received the money what happened?

[PO2 Sistemio]: I immediately introduced myself as PDEA agent, sir.

[Prosecutor]: You introduced yourself as PDEA Officer?

[PO2 Sistemio]: Yes, sir.

¹⁹ TSN Folder, pp. 26, 135, 141-142, 171, 185-187, 209-213.

²⁰ Records, pp. 15, 35. Two copies of the same Certification are attached to the record. The copies are identical and both bear the solitary signature of *Kagawad* Gotladera.

²¹ *People v. Acub y Arakani*, G.R. No. 220456, June 10, 2019.

²² Records, p. 7.

[Prosecutor]: And after you introduced yourself as PDEA Agent what happened next?

[PO2 Sistemio]: PCI Basa immediately effected the arrest of alias Baby, sir.

[Prosecutor]: And this Ricardo Basa was the one driving the vehicle?

[PO2 Sistemio]: Yes, sir.

[Prosecutor]: Can you tell to this Honorable Court how was he Basa able to arrest this person?

[PO2 Sistemio]: While the transaction was going on, PCI Basa alighted from our vehicle, opened the hood of the said car and pretending to be putting the water into the radiator, sir.

[Prosecutor]: Now what else did PCI do aside from arresting Baby?

[PO2 Sistemio]: PCI Basa recovered also the marked money, sir, the buy-bust money and the boodle money, sir.

[Prosecutor]: And after PCI Basa recovered the money what did he do?

[PO2 Sistemio]: He informed the suspect of [her] constitutional rights, sir.

[Prosecutor]: After the accused was informed of her constitutional rights what did you do next?

[PO2 Sistemio]: And then we brought the suspect to Barangay Roxas for the inventory of the said recovered evidence, sir.

[Prosecutor]: Who conducted the said inventory?

[PO2 Sistemio]: PSI Jaime Santos, sir.

[Prosecutor]: And when you were at the said Barangay Roxas what happened?

[PO2 Sistemio]: The Bgy. Kagawad signed the inventory report of the said recovered evidence that we prepared, sir.

[Prosecutor]: Where is now that inventory report?

[PO2 Sistemio]: In our logbook, sir.

[Prosecutor]: Where is that?

[PO2 Sistemio]: Here, sir.²³

x x x x

[Atty. Garlitos]: After informing the accused of her constitutional rights, her violation and the nature of her arrest, she was boarded inside the vehicle and was brought to your office?

[PO2 Sistemio]: Sir, to Barangay Roxas District for certification.

[Atty. Garlitos]: Is it not supposed to be that part of the usual SOP, you should have first go to the Barangay Office before your operation?

[PO2 Sistemio]: We must go to the Barangay office for certification only sir.

[Atty. Garlitos]: Is it not also that you must have prepared an inventory of the list of the items that were taken from the accused in the place where the arrest of the accused was made?

A Yes, sir.

²³ TSN Folder, pp. 24-27. Testimony of PO2 Peter Sistemio on direct examination.

[Atty. Garlitos]: Did you do that?

A Yes, sir.

[Atty. Garlitos]: At the place of the arrest?

A Yes, sir.

[Atty. Garlitos]: I thought you went first to the Barangay Office?

A We already have the form, sir.

[Atty. Garlitos]: But you did not bring with you any barangay official?

A No, sir.

[Atty. Garlitos]: Likewise, you are supposed to have pictures?

A Yes, sir.

[Atty. Garlitos]: Is there any photograph taken at the time of the arrest of the accused?

A Yes, sir.

[Atty. Garlitos]: Where are the pictures?

A In our office. I can bring them sir.

[Atty. Garlitos]: You can bring them?

A Yes, sir.

[Atty. Garlitos]: You took it where?

A At the Barangay Hall, sir.

[Atty. Garlitos]: But that is not the place where the arrest happened?

A Yes, sir.

COURT (to the witness)

[Presiding Judge]: You mean to say that the inventory report is still with you?

A Yes, Your Honor, xerox copy, it is the Certification.

[Presiding Judge]: Was it shown to the public prosecutor already?

A Yes, Your Honor.

PROS:

Your Honor, the Certification is at the same time the Inventory, here.

ATTY. GARLITOS: (to the witness)

Q So, you prepared all of these at the Barangay Hall?

A Sir, the Certification at the place of the arrest.

Q At the place of the arrest?

A Yes, sir.

Q How long did you stay at the place of the arrest?

A Just a minute, sir.

Q One minute?

A Maybe, sir.

Q So you prepared that?

A Yes, sir.

Q And during the time that all of these happened, of course, you never got out of the car?

A Yes, sir.

Q You stayed inside?

A Yes, sir.

Q From the place of the arrest, you went to the Barangay Office immediately?

A Yes, sir.

Q You are sure of that?

A Yes, sir. Because it is a Barangay Office.

Q At the Barangay Office, can you tell us who were the persons there?

A Barangay tanods and kagawads, sir.

Q What time did you arrive at the Barangay Office?

A I [cannot] recall, sir.

Q You cannot recall?

A Yes, sir.²⁴

x x x x

PROS. MAYNIGO: (to [P/C Insp. Basa])

Q. And after the arrest of the accused where did you bring the accused?

A. We waited for the arrival of the *barangay* officials, and then P02 Sistemio prepared a Certificate of Inventory of Seized Evidence witnessed by the *barangay* official, sir.

Q. If the said certification would be shown to you, would you be able to identify it?

A. Yes, sir.

Q. Showing to you this one (1)-page document 'Certification', kindly look at the same and tell before this Honorable Court, what relation has this document to that certification prepared by the poseur-buyer in the presence of the accused and the *barangay kagawad*?

A. This is a photocopy of the certification made by PO2 Peter Sistemio, sir.

x x x x

Q. There is a signature appearing on top of the name Ma. Carmela Ladema, Barangay Kagawad, Barangay Roxas. Do you know who placed this signature appearing on top of this name?

A. Yes, sir.

Q. Who?

A. The Barangay Kagawad of the said district.

x x x x

²⁴ TSN Folder, pp. 116-121.

Q. Now, Mr. Witness, showing to you several pictures marked as Exhibits "R", "S", and "T", kindly look at the same, and tell before this Honorable Court, if you can recognize these persons appearing on these pictures.

A. I can recognize this picture –

COURT: (to [P/C Insp. Basa])

Q. Okay, what picture are you holding, the one that's marked as Exhibit – ?

A. Exhibit "R", your Honor.

Q. Okay, who are those persons depicted therein?

A. In this picture, Exhibit "R, the one marked as Exhibit "R-1" is the *barangay kagawad*; the person with marking "R-2" is the accused; and the person with marking "R-3" is PO2 Peter Sistemio.

Q. Showing to you this Exhibit "S", kindly tell to this Honorable Court who these persons are?

A. Exhibit "S-1" is the accused; "S-2" is the *barangay official*; and "S-3" is PO2 Peter Sistemio, sir.

x x x x

Q. You were able to identify the three (3) persons appearing on these three pictures; where were you when these pictures were taken?

A. I was in the car, sir, in the vicinity of the *barangay*, sir.

Q. So you were in the vicinity of the *barangay* – particularly where were these persons at the time when these pictures were taken?

A. They were inside the *barangay* hall/office, sir.

COURT: (to [P/C Insp. Basa])

Q. But you were not inside?

A. I was not inside, your Honor, I was just waiting for them to come out of the office.

COURT:
Alright.²⁵

In view of the apprehending officers' non-compliance with the requirements of Section 21 of R.A. No. 9165, the prosecution's case crumbles. Absent any proof beyond reasonable doubt of the existence and identity of the narcotic substance allegedly confiscated from Bacani, her conviction cannot be sustained.

WHEREFORE, the present appeal is **GRANTED**. The May 31, 2011 Decision of the Court of Appeals in CA-G.R. CR HC No. 04143 is hereby **REVERSED** and **SET ASIDE**. Accused-appellant Eleonor Bacani y Remolacio is hereby **ACQUITTED** for failure of the prosecution to prove her guilt beyond reasonable doubt. She is **ORDERED IMMEDIATELY RELEASED** from detention, unless she is being detained for any other lawful cause.

²⁵ TSN Folder, pp. 169-176.

SO ORDERED.”

(Leonen, J., on official leave; Gesmundo, J., Acting Chairperson; Hernando, J., designated additional Member per Raffle dated March 11, 2020; Zalameda, J., recused himself from the case due to prior participation in the CA)

By authority of the Court:

Misael DC Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *12/16/21*

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