



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

NOTICE

Sirs/Mesdames:

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

“G.R. No. 237361 (PHILIP RIMANDO y PAGLINGAYEN, petitioner, v. PEOPLE OF THE PHILIPPINES, respondent.) — This resolves an appeal from the Court of Appeals’ Decision,¹ affirming the Regional Trial Court’s Decision,² which convicted Philip Rimando y Paglingayen of illegal sale of dangerous drugs punished under Section 5 of Republic Act No. 9165, also known as the Comprehensive Dangerous Drugs Act. The Court of Appeals then denied Rimando’s subsequent Motion for Reconsideration.³

Philip Rimando y Paglingayen (Rimando) was charged with violating Section 5 of the Comprehensive Dangerous Drugs Act, as follows:

That on or about 9:30 o’clock in the evening of September 4, 2012, at Brgy. Nancamaliran East, Urdaneta City, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously *sell one (1) heat-sealed transparent plastic sachet containing Methamphetamine Hydrochloride (SHABU), a dangerous drug, weighing 0.042 gram.*

CONTRARY to Sec. 5, Art. II of Republic Act 9165, otherwise known as ‘Comprehensive Dangerous Drugs Act of 2002.’⁴ (Emphasis in original)

On October 3, 2012, Rimando was arraigned and entered a plea of not guilty.⁵ The parties proceeded to trial, with the prosecution forwarding the following version of facts:

¹ *Rollo*, pp. 27–42. The Decision dated January 31, 2017 in CA-G.R. CR HC No. 07677 was penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Jose C. Reyes, Jr. (Chairperson) and Ramon Paul L. Hernando of the Fifth Division of the Court of Appeals, Manila.
² *Id.* at 63–75. The Decision dated July 29, 2015 in Crim. Case no. U-18339 was penned by Judge Elizabeth L. Berdal of Branch 47, Regional Trial Court, Urdaneta City, Pangasinan.
³ *Id.* at 24–25. The Resolution was penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Jose C. Reyes, Jr. and Ramon Paul L. Hernando of the Former Fifth Division, Court of Appeals, Manila.
⁴ *Id.* at 28.
⁵ *Id.*

The prosecution alleged that on September 4, 2012, at around 9:30 p.m., PO2 Jose Petras III (PO2 Petras) and PO3 Arnulfo Cayetano, Jr. (PO2 Cayetano) received information from a confidential informant that Rimando was selling shabu in Barangay Nancamarilan East, Urdaneta City, Pangasinan.⁶ PO2 Petras and PO2 Cayetano passed the information on to their superiors, PCI Jervel Villacorta (PCI Villacorta) and Police Superintendent Fidel Drapeza, who then formed a buy-bust team.⁷

After the team's briefing, PO2 Petras acted as poseur-buyer and PO3 Cayetano as back-up security, with the latter holding the ₱500.00 bill with serial number YH673474 as buy-bust money. PO3 Cayetano's receipt of the buy-bust money was logged in the police blotter by the Deputy Desk Officer, PO3 Amir Estrada (PO3 Estrada). Moreover, PCI Villacorta also e-mailed the Philippine Drug Enforcement Agency regarding the operation.⁸

The confidential informant then contacted "Pilipa," and both agreed on a transaction for ₱500.00 worth of shabu. They settled to meet near a waiting shed in Zone 4, Barangay Nancamarilan East, Urdaneta City.⁹

Thereafter, the buy-bust team proceeded to the agreed place, with PO2 Petras and PO3 Cayetano aboard a motorcycle while PCI Rillorta followed in a separate car.¹⁰ Upon the team's arrival, PO2 Petras approached the waiting shed where Rimando stood. Rimando then asked them, "Kuha kayo?" to which PO2 Petras replied, "₱500.00 lang ang dala namin." Rimando then handed over the plastic sachet containing a white crystalline substance for PO2 Petras' ₱500.00 bill.¹¹

After the exchange, PO2 Petras executed the pre-arranged signal by removing his cap. PO3 Cayetano rushed to the waiting shed and assisted PO2 Petras with Rimando's arrest. PO2 Petras informed Rimando of his constitutional rights and recovered the ₱500.00 buy-bust money from the latter.¹² PO2 Petras kept both pieces of evidence in his jacket's pocket until the team arrived at the police station.¹³ PO2 Petras held that he no longer showed PO3 Cayetano his empty pockets immediately prior to the arrest, claiming that he already did so during the team briefing.¹⁴

⁶ Id. at 28-29.

⁷ Id. at 29.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² CA rollo, p. 66.

¹³ Rollo, p. 29.

¹⁴ CA rollo, p. 67.

The police officers were allegedly unable to mark the confiscated on site due to the heavy rain, so they returned to the police station together with Rimando. Moreover, the persons previously contacted to appear, namely the media representative and barangay officials, were unable to present themselves at the police station. Hence, PO2 Petras took it upon himself to mark the plastic sachet with his initials "JIP" and prepared a Confiscation and Inventory Receipt. PO3 Cayetano, on the other hand, took photographs of the proceedings in the presence of both Rimando and the Duty Desk Officer.¹⁵

At 11:00 p.m. on the same day, PO2 Petras delivered the confiscated item and a Request for Laboratory Examination to the PNP Crime Laboratory, Urdaneta City, Pangasinan, which was received by PO3 Jeffry Tajon. Upon receipt, Forensic Chemist PCI Emelda Besarra Roderos marked the plastic sachet with control number D-0155-2012-U, along with the date, the specimen's weight, and her initials. Afterwards, she examined the specimen which resulted positive for the presence of methamphetamine hydrochloride.¹⁶

On April 8, 2014, the prosecution formally offered its documentary evidence. Afterwards, the defense presented their witnesses and forwarded the following version of facts:¹⁷

The defense alleges that at around 2:30 p.m. on September 4, 2012, Rimando was in his residence at Brgy. Nancamaliran East, Urdaneta City, Pangasinan. He and Eric Narciso (Narciso) were in the *sala* of the house, watching television while waiting for a scheduled home facial make up service with a client.¹⁸

Thereafter, Rimando received a call. The caller turned out to be his friend, Jerry "Jennifer" Lee Pimentel (Jennifer), who told him that he wanted to come over, to which Rimando agreed. Jennifer soon arrived at Rimando's house, along with two individuals who entered the *sala*. One of Jennifer's companions then called someone and said "confirm." Afterwards, the two individuals started frisking Rimando and his friend Narciso, while Jennifer was released.¹⁹

Immediately after, two other individuals wearing civilian clothes entered the house and said that they were police officers. Afterwards, they searched the house and took some imported items without authority. Then, they

¹⁵ *Rollo*, p. 29.

¹⁶ *Id.* at 30.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 30-31.

they handcuffed Rimando and Narciso. They were escorted outside and boarded an unmarked private vehicle.²⁰

Rimando said that the police officers were asking ₱100,000.00 from him and Narciso. Eventually, Narciso was released after allegedly paying ₱50,000.00. For failing to pay the amount, Rimando was booked in the police station for allegedly selling shabu in a buy-bust operation.²¹

On May 19, 2015, Rimando formally offered his evidence. Thereafter, the case was deemed submitted for decision on June 8, 2015.²²

The Regional Trial Court found Rimando guilty as charged and rendered judgement as follows:

WHEREFORE, premises considered, this Court finds the accused **Philip Rimando y Paglingayen GUILTY** beyond reasonable doubt, as charged. Accordingly, he is hereby sentenced to suffer a jail term of **Life Imprisonment** and to pay a **fine** of P500,000.00.

The sachet of shabu involved in this case shall be transmitted [sic] the Philippine Drug Enforcement Agency (PDEA) thru the Dangerous Drugs Board (DDB) for proper disposal.

SO ORDERED.²³ (Emphasis in the original)

The Trial Court found the prosecution's evidence more than sufficient to convict Rimando, and ruled that the buy-bust operation enjoyed the presumption of regularity.²⁴ Moreover, the Regional Trial Court held that all the elements of an illegal sale of dangerous drugs were present.

On appeal, the Court of Appeals affirmed the Regional Trial Court's ruling *in toto*:²⁵

WHEREFORE, the instant appeal is hereby **DENIED**. The appealed July 29, 2015 Decision of the Regional Trial Court of Urduyeta City, Pangasinan, Branch 47, in Criminal Case No. U-18339, finding accused-appellant Philip Rimando y Paglingayen **GUILTY** beyond reasonable doubt for the crime of Violation of Section 5, Article II, of RA 9165, is hereby **AFFIRMED in toto**.

²⁰

Id.

²¹

Id. at 31.

²²

Id.

²³

Id. at 75.

²⁴

Id. at 32-33.

²⁵

Id. at 27-42.

SO ORDERED.²⁶ (Emphasis in the original)

The Court of Appeals upheld the prosecution's version that Rimando sold shabu to police officers during a buy-bust operation. As to the issue of the chain of custody, the Court of Appeals deemed the steps taken by the apprehending police officers to be consistent with the requirements of law and jurisprudence.²⁷ Specifically, it held that "less than strict compliance with the procedural aspect of the chain of custody rule does not necessarily render the seized drug items inadmissible."²⁸

Thus, the failure to mark the evidence on site due to heavy rain, and the absence of the witnesses during the inventory, were deemed insufficient to overturn the presumption of regularity in the officers' performance of their duties.²⁹

In the April 20, 2017 Resolution,³⁰ the Court of Appeals denied Rimando's Motion for Reconsideration. Hence, Rimando filed a petition for review on certiorari,³¹ arguing that the irregularities in the seizure, marking, and inventory of the *corpus delicti* cast doubt on its integrity.³² Petitioner questions the credibility of the prosecution's version of events, claiming that it is "absurd and illogical"³³ for the arresting officers to claim that it was impossible to mark and inventory the seized items on site because of the pouring rain, when a waiting shed was available nearby. Petitioner also points out that the arresting officers admitted to having back-up vehicles around 15 meters away from the place of arrest, where the inventory and marking could have also been done.³⁴

When required to comment on the petition, the prosecution instead manifested that it was adopting the same arguments used in its appellee's brief before the Court of Appeals.³⁵

For this Court's resolution now is the sole issue of whether or not petitioner Philip Rimando y Paglingayen is guilty beyond reasonable doubt for violating Section 5 of the Comprehensive Dangerous Drugs Act.

Petitioner's appeal is granted.

²⁶ Id. at 41.

²⁷ Id. at 36-37.

²⁸ Id. at 37-38.

²⁹ Id. at 38.

³⁰ Id. at 24-25.

³¹ Id. at 6-22.

³² Id. at 13.

³³ Id. at 14.

³⁴ Id. at 14-15.

³⁵ Id. at 89-91.

The prosecution failed to establish petitioner's guilt beyond reasonable doubt. Verily, an accused has the right to be presumed innocent until proven guilty, as provided by Article III, Section 14 (2) of the 1987 Constitution:

SECTION 14. (2) In all criminal prosecutions, the accused shall be *presumed innocent until the contrary is proved*, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable. (Emphasis supplied)

Thus, the prosecution must establish the moral certainty of every fact necessary to constitute the crime with which petitioner is charged.³⁶ To sustain a conviction under Section 5 of the Comprehensive Dangerous Drugs Act, the prosecution must establish the following elements beyond reasonable doubt:

(1) [P]roof that the transaction or sale took place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.³⁷

Proof of the transaction or sale, and the presentation in court of the dangerous drugs seized as evidence is indispensable. Further, the *corpus delicti*, which establishes the fact of the crime's commission,³⁸ has the following elements:

(1) [P]roof of the occurrence of a certain event; and (2) some person's criminal responsibility[.]³⁹

The *corpus delicti* must be credible. Otherwise, it creates doubts as to the origins of the confiscated item. To obviate doubt in a buy-bust operation, Section 21 of the Comprehensive Dangerous Drugs Act provides the requirements for the custody and disposition of confiscated items:

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

³⁶ *People v. Cabellon y Cabañero*, 818 Phil. 561, 568 (2017) [Per J. Leonen, Third Division].

³⁷ *Id.*

³⁸ *People v. de Leon*, 624 Phil. 786, 796 (2010) [Per J. Velasco, Jr., Third Division].

³⁹ *Id.*

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:

(a) 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[.]

Further, the Implementing Rules and Regulations of the Comprehensive Dangerous Drugs Act elaborated on the proper procedure to be followed by the apprehending officers:

(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 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; (Emphasis supplied)

*People v. Nandi*⁴⁰ also summarizes the provisions under Section 21 of the Comprehensive Dangerous Drugs Act into four (4) links, which must be established in the chain of custody of the seized and confiscated item:

[F]irst, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.⁴¹ (Citation omitted)

⁴⁰ 639 Phil. 134 (2010) [Per J. Mendoza, Second Division].

⁴¹ Id. at 144-145.

Furthermore, compliance with the chain of custody requirements is necessary to preserve the integrity of the seized and confiscated drugs and/or drug paraphernalia in four (4) aspects:

[F]irst, the nature of the substances or items seized; second, the quantity (*e.g.*, weight) of the substances or items seized; third, the relation of the substances or items seized to the incident allegedly causing their seizure; and fourth, the relation of the substances or items seized to the person/s alleged to have been in possession of or peddling them. Compliance with this requirement forecloses opportunities for planting, contaminating, or tampering of evidence in any manner.⁴²

In view of the standards listed above, the prosecution failed to prove petitioner's guilt beyond reasonable doubt because of irregularities in the chain of custody over the *corpus delicti*.

People v. Seneres holds that dangerous drugs in amounts as small as 0.11 gram were miniscule, and thus, "highly susceptible to planting, tampering, or alteration."⁴³ Thus, the 0.042 gram of shabu involved in this case requires strict compliance with the rules on chain of custody. "[S]trict compliance is also consistent with the doctrine that penal laws shall be construed strictly against the Government and liberally in favor of the accused."⁴⁴ Any deviation from these requirements "leave[s] the door open for tampering, substitution, and planting of evidence."⁴⁵

The prosecution alleges that the apprehending officers purchased 0.042 gram worth of shabu from petitioner during a buy-bust operation. PO3 Petras testified that at the time of arrest, he placed the confiscated shabu inside the pocket of his jacket, but did not show the contents of his pocket after the confiscation because he already showed that it was empty at the time of the briefing.⁴⁶ Therefore, no one besides PO3 Petras could guarantee whether or not his pockets were empty from the time of the briefing until the petitioner's arrest. *People v. Castillo y Maranan*⁴⁷ highlights the danger of leaving such gaps in the chain of custody:

The prosecution maintains that after the alleged confiscation of items from accused-appellant, the buy-bust team went inside their vehicle parked near the place of arrest, and there did the marking. This claim alone acknowledges the *ostensibly clandestine conduct of the police officers*. Moreover, *there is no independent guarantee on the integrity of*

⁴² *People v. Holgado*, 741 Phil. 78, 93 (2014) [Per J. Leonen, Third Division].

⁴³ *People v. Seneres, Jr.*, G.R. No. 231008, November 5, 2018 <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64752>> [Per J. Peralta, Third Division].

⁴⁴ *People v. Bautista*, 723 Phil. 646, 651 (2013) [Per J. Abad, Third Division].

⁴⁵ *People v. Que*, 824 Phil. 882, 901 (2018) [Per J. Leonen, Third Division].

⁴⁶ *Rollo*, p. 66-67.

⁴⁷ G.R. No. 238339, August 07, 2019 <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65610>> [Per J. Leonen, Third Division].

*whatever it was that the police officers did next. Other than them and their self-serving assurances, no other person could attest to how they conducted themselves at the place of the arrest and, ultimately, in the isolation of their own vehicle.*⁴⁸ (Citations omitted; Emphasis supplied)

The isolated and seemingly clandestine nature of the operation, which cast doubt on the integrity of the evidence seized in *People v. Castillo y Maranan*, is also apparent here. The prosecution admits that there was no one else to witness petitioner's arrest, as it was conducted along an empty stretch of road with "no other persons in the vicinity."⁴⁹ Neither were the police officers able to secure the attendance of the witnesses required by the Comprehensive Dangerous Drugs Act to be present for the arrest, seizure and inventory. Further, the arresting officers failed to conduct the inventory "immediately after seizure and confiscation," as required by the Rules.

These irregularities clearly deviate from the rules. *People v. Rivera y Otom*⁵⁰ clarified that the physical inventory of the seized items must be done "immediately after, or at the place of apprehension[.]" and that the witnesses required by the rules should likewise be present at the time of arrest. Furthermore:

The phrase "immediately after seizure and confiscation" means that the *physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension*. It is only when the same is not practicable that the Implementing Rules and Regulations (IRR) of RA 9165 allows the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team. *In this connection, this also means that the three required witnesses should already be physically present at the time of the conduct of the physical inventory of the seized items which, again, must be immediately done at the place of seizure and confiscation — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity*. Verily, a buy-bust team normally has enough time to gather and bring with them the said witnesses.

It is true that there are cases where the Court has ruled that the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 does not *ipso facto* render the seizure and custody over the items void and invalid. However, this is with the caveat, as the CA itself pointed out, that the prosecution still needs to satisfactorily prove that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved. *The Court has repeatedly emphasized that the prosecution should explain the reasons behind the procedural lapses.*⁵¹ (Citations

⁴⁸ Id.

⁴⁹ *Rollo*, p. 66.

⁵⁰ *People v. Rivera y Otom*, G.R. No. 225786, November 14, 2018 <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64854>> [Per J. Caguioa, Second Division].

⁵¹ Id.

omitted, emphasis supplied)

*People v. Rivera y Otom*⁵² further clarifies that the prosecution must sufficiently explain any deviation from the rules. Here, the prosecution insisted that heavy rain and poor lighting conditions at the place of arrest prevented them from immediately marking and taking inventory of the seized items on site. However, the prosecution also admitted that there was a waiting shed “10 to 15 steps away[.]”⁵³ It is therefore doubtful that marking a single packet of shabu would have been impossible under the circumstances.

In any event, the absence of required witnesses during the seizure, marking, and inventory of the *corpus delicti* casts doubt on its origin and integrity. The police officers reasoned that despite contacting the witnesses beforehand, none replied or appeared at the time of arrest, or at the police station. Thus, the team conducted the inventory despite the absence of the required witnesses.⁵⁴ This is not sanctioned by the rules. *People v. Rivera y Otom* is again instructive:

The prosecution has the burden of (1) proving the police officers' compliance with Section 21, RA 9165, and (2) providing a sufficient explanation in case of non-compliance. As the Court *en banc* unanimously held in the recent case of *People v. Lim*:

It must be **alleged** and **proved** that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

(1) **their attendance was impossible because the place of arrest was a remote area;** (2) **their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf;** (3) **the elected official themselves were involved in the punishable acts sought to be apprehended;** (4) **earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention;** or (5) **time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even**

⁵² G.R. No. 225786, November 14, 2018, <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64854> [Per J. Caguioa, Second Division].

⁵³ *Rollo*, p. 66.

⁵⁴ *Id.* at 65.

before the offenders could escape.⁵⁵ (Citations omitted, emphasis in the original)

The prosecution failed to forward any reasonable justification for the absence of the required witnesses. The police officers' inability to contact and ensure the attendance of the required witnesses should have been enough reason to call off the operation, instead of a license to proceed. Despite this, the police officers risked their operation being marred by fatal irregularities, wasted valuable resources, and subjected a person to an undue restraint of his rights.

The importance of ensuring the attendance of the required witnesses at the time of apprehension cannot be over-emphasized. In *People v. Castillo*, this Court held that:

The presence of third-party witnesses during seizure and marking ensures that whatever items are subsequently inventoried, photographed, examined, and presented in court are the same substances that were initially obtained from the accused.

In *People v. Tomawis*, this Court declared that the third-party witnesses required by Section 21 *must be present as early as the time of apprehension*:

Section 21 plainly requires the apprehending team to conduct a physical inventory of the seized items and the photographing of the same immediately after seizure and confiscation. In addition, the inventory must be done in the presence of the accused, his counsel, or representative, a representative of the DOJ, the media, and an elected public official, who shall be required to sign the copies of the inventory and be given a copy thereof.

The phrase "immediately after seizure and confiscation" means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. And only if this is not practicable, the IRR allows that the inventory and photographing could be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team. *By the same token, however, this also means that the three required witnesses should already be physically present at the time of apprehension*—a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. Simply put, the buy-bust team has enough time and opportunity to bring with them said witnesses.

⁵⁵ Id.

.....

The presence of the three witnesses must be secured not only during the inventory but more importantly at the time of the warrantless arrest. It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the 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 drugs were done in their presence in accordance with Section 21 of RA 9165.

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so — and "calling them in" to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.

To restate, the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs "immediately after seizure and confiscation."

.....

Here, the absence of witnesses during seizure and marking casts reasonable doubt on the actual origin and identity of the drugs introduced in evidence as those allegedly seized from accused-appellant. Ultimately, this same absence casts reasonable doubt on accused-appellant's guilt for the offenses with which he is charged.⁵⁶ (Citations omitted; Emphasis supplied)

We reiterate that strict compliance with chain of custody requirements is imperative where the amount of dangerous drugs involved is so miniscule as to be susceptible to tampering.⁵⁷ Further, the pre-planned nature of a buy-bust operation, and the presumed familiarity of police officers with procedures listed in their very own operation manuals requires their strict

⁵⁶ *People v. Castillo*, G.R. No. 238339, August 7, 2019 <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65610>> [Per J. Leonen, Third Division].

⁵⁷ *People v. Holgado*, 741 Phil. 78, 93 (2014) [Per J. Leonen, Third Division].

compliance with the same procedures. The presumption of regularity in the performance of official functions cannot remedy blatant disregard for what is required under the law. The irregularities in the buy-bust operation cast reasonable doubt on petitioner's guilt. Thus, petitioner must be acquitted.

WHEREFORE, premises considered, the Decision dated January 31, 2017 and Resolution dated April 20, 2017 of the Court of Appeals in CA-G.R. CR H.C. No. 07677 are **REVERSED** and **SET ASIDE**. Petitioner Philip Rimando y Paglingayen is hereby **ACQUITTED** and is ordered immediately **RELEASED** from confinement unless he is being held for some other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report the action he has taken to this Court within five (5) days from receipt of this Resolution. For their information, copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency.


The Regional Trial Court is directed to turn the seized sachets of methamphetamine hydrochloride over to the Dangerous Drugs Board for destruction in accordance with law.

SO ORDERED.”

By authority of the Court:

MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

By:


RUMARD D. PASION
Deputy Division Clerk of Court

GER
913120

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The Superintendent
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Mr. Philip Rimando y Paglingayen
c/o Superintendent
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BUREAU OF CORRECTIONS
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THIRD DIVISION

PHILIP RIMANDO y
PAGLINGAYEN,
Petitioner,

G.R. No. 237361

-versus-

PEOPLE OF THE PHILIPPINES,
Respondent.
x-----/

ORDER OF RELEASE

TO: The Director
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Thru: **The Superintendent**
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

GREETINGS:

WHEREAS, the Supreme Court on **February 12, 2020** promulgated a **Resolution** in the above-entitled case, the dispositive portion of which reads:

“WHEREFORE, premises considered, the Decision dated January 31, 2017 and Resolution dated April 20, 2017 of

the Court of Appeals in CA-G.R. CR H.C. No. 07677 are **REVERSED** and **SET ASIDE**. Petitioner Philip Rimando y Paglingayen is hereby **ACQUITTED** and is ordered immediately **RELEASED** from confinement unless he is being held for some other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report the action he has taken to this Court within five (5) days from receipt of this Resolution. For their information, copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency.

The Regional Trial Court is directed to turn the seized sachets of methamphetamine hydrochloride over to the Dangerous Drugs Board for destruction in accordance with law.

SO ORDERED.”

NOW, THEREFORE, You are hereby ordered to immediately release **PHILIP RIMANDO y PAGLINGAYEN**, unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

GIVEN by the Honorable **MARVIC MARIO VICTOR F. LEONEN**,
Chairperson of the Third Division of the Supreme Court of the Philippines,
this **12th** day of **February 2020**.

By authority of the Court:

MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

By:


RUMAR D. PASION
Deputy Division Clerk of Court

GER
9/15/20

Atty. Dar A. Diga
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Pangasinan

COURT OF APPEALS
CA G.R. CR HC No. 07677
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

Mr. Philip Rimando y Panglingayen
c/o Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Director General
PHILIPPINE NATIONAL POLICE
National Headquarters
Camp Crame, Quezon City

The Director General
PHILIPPINE DRUG ENFORCEMENT AGENCY
PDEA Bldg., NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

DANGEROUS DRUGS BOARD
3rd Floor DDB-PDEA Bldg.,
NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

PUBLIC INFORMATION OFFICE
LIBRARY SERVICES
Supreme Court, Manila

G.R. No. 237361

