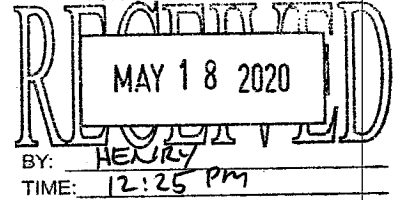




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 5, 2020 which reads as follows:

“G.R. No. 242135 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus DANILO DE GUZMAN, JR. y BERSANO, accused-appellant.

After a careful review of the records of the instant case, the Court reverses and sets aside the Decision¹ dated March 23, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09001, which affirmed the Joint Judgment² dated January 31, 2017 rendered by the Regional Trial Court (RTC) of Quezon City, Branch 79 in Criminal Case Nos. R-QZN-14-01907-CR and R-QZN-14-01908-CR, finding accused-appellant Danilo De Guzman, Jr. y Bersano (De Guzman) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” as amended.

The Court acquits De Guzman for failure of the prosecution to prove that the integrity and evidentiary value of the seized drug were preserved. It is evident that the chain of custody was broken due to the procedural lapses committed by the police officers in the conduct of the buy-bust operation.

Section 21, Article II of R.A. 9165, outlines the procedure which the police officers must strictly follow to preserve the integrity and evidentiary value of the confiscated drugs and/or paraphernalia used as evidence. The provision requires that: **(1) the seized items be inventoried and photographed immediately after seizure or**

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¹ *Rollo*, pp. 2-21. Penned by Associate Justice Pedro B. Corales, with Associate Justices Rosmari D. Carandang (now a member of this Court) and Rafael Antonio M. Santos, concurring.

² *CA rollo*, pp. 40-48. Penned by Presiding Judge Nadine Jessica Corazon J. Fama.

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 of the same and the seized drugs must be turned over to the forensic laboratory within twenty-four (24) hours from confiscation for examination.

In the instant case, the buy-bust team blatantly disregarded the clear procedures under Section 21. The police officers did not inventory and photograph the seized drug immediately after seizure/confiscation at the place of arrest.³ Also, as admitted by PO3 Fernando Salonga, no representative from the DOJ or media witnessed the inventory at the barangay hall.⁴

In order to justify their non-compliance with the inventory and photography requirements, the police officers explained that they decided to transfer and conduct said procedures at the barangay hall to avoid commotion since a crowd was allegedly gathering in the area.⁵ As to the witnesses, the police officers offered a flimsy excuse that they purportedly tried to contact a representative from the DOJ and from the media, however, no one arrived.⁶ However, these reasons advanced by the buy-bust team are hardly acceptable.

In this connection, it bears stressing that the prosecution has the burden of (1) proving the police officers' compliance with Section 21 of R.A. 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*:⁷

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**

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³ TSN, June 19, 2015, p. 8.

⁴ *Id.* at 9.

⁵ *Id.*

⁶ *Id.*

⁷ G.R. No. 231989, September 4, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>>.

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 before the offenders could escape.⁸ (Emphasis in the original and underscoring supplied)

In the present case, none of the abovementioned circumstances was attendant. Verily, the buy-bust team had no excuse to justify their non-compliance with Section 21.

More importantly, it bears emphasis that the presence of the required witnesses at the time of the apprehension and inventory, is mandatory and that the law imposes the said requirement because their presence serves an essential purpose. Using the language of the Court in *People v. Mendoza*,⁹

x x x Without the insulating presence of the representative from the media or the Department of Justice, or any elected public official during the seizure and marking of the sachets of *shabu*, the evils of switching, “planting” or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA No. 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 sachets of *shabu* that were evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused. x x x.¹⁰

Lastly, reliance on the presumption of regularity in the performance of official duty despite the lapses in the procedures undertaken by the buy-bust team is fundamentally unsound because the lapses themselves are affirmative proofs of irregularity.¹¹ Thus, the CA erred in ruling that the presumption that the integrity and evidentiary value of the evidence were preserved.

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⁸ Id., citing *People v. Sipin*, G.R. No. 224290, June 11, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64255>>.

⁹ 736 Phil. 749 (2014).

¹⁰ Id. at 764.

¹¹ Id. at 770.

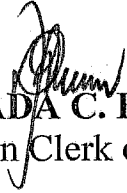
All told, the prosecution failed to prove the *corpus delicti* of the offense of illegal sale and possession of drugs due to the multiple unexplained breaches of procedure committed by the buy-bust team. De Guzman is thus acquitted of the crimes charged.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated March 23, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09001 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **DANILO DE GUZMAN, JR. y BERSANO** is **ACQUITTED** of the crimes 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 furnished 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.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *gld/ll*
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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. 09001)

The Hon. Presiding Judge
Regional Trial Court, Branch 79
1100 Quezon City
(Crim. Case Nos. R-QZN-14-01907
-CR & R-QZN-14-01908-CR)

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- over -



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