



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 27, 2020 which reads as follows:

“G.R. No. 222570 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus RANYA GATDULA AHMED AND RICHARD BACHARPA y MACARENE, accused-appellants.

RESOLUTION

After a careful review of the records of the instant case, the Court reverses and sets aside the assailed Decision¹ dated September 22, 2015 (Decision) of the Court of Appeals, Cagayan de Oro City (CA), in CA-G.R. CR-HC No. 01210-MIN, which affirmed the Judgment² dated August 28, 2013 of the Regional Trial Court, Branch 40, Cagayan de Oro City (RTC), in Criminal Case No. 2011-184, finding accused-appellants Ranya Gatdula Ahmed and Richard Bacharpa y Macarene guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002,” as amended. The Court acquits accused-appellants for failure of the prosecution to prove their guilt beyond reasonable doubt.

Well settled in jurisprudence is the principle that in all prosecutions for violation of R.A. No. 9165, it is essential that the identity and integrity of the seized drug, which constitutes the very *corpus delicti* of the crime, must be established with moral certainty.³ In this regard, Section 21, Article II of R.A. No. 9165, which outlines

¹ *Rollo*, pp. 3-18. Penned by Associate Justice Maria Filomena D. Singh with Associate Justices Pablito A. Perez and Ronald B. Martin, concurring.

² *CA rollo*, pp. 28-39. Penned by Presiding Judge Ma. Corazon B. Gaité-Llenderal

³ *People v. Alvaro*, G.R. No. 225596, January 10, 2018, 850 SCRA 464, 479.

the procedures the police officers must strictly follow, provides that: (1) the seized items must be inventoried and photographed immediately after seizure or confiscation; and (2) the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, **and (d) a representative from the Department of Justice (DOJ)**, all of whom shall be required to sign the copies of the inventory and be given a copy thereof.

In the instant case, the prosecution admitted that the physical inventory and photography of the seized items were made in the presence only of a barangay kagawad and a representative from the media.⁴ **No representative from the DOJ witnessed the conduct of the inventory.**⁵

Indeed, this Court has held that presence of the witnesses from the DOJ, media, and public elective office is *necessary* to protect and guard against planting, contamination or loss of the seized drug.⁶ The presence of these disinterested witnesses would belie any doubt as to the source, identity and integrity of the seized drug.⁷ Using the language of the Court in *People v. Mendoza*,⁸ without the *insulating presence* of the representatives from the media, and the DOJ as well as any elected public official during the seizure and marking of the drug, the evils of switching, “planting” or contamination of the evidence that had tainted previous buy-bust operations would not be averted, thereby negating the integrity and credibility of the seizure and confiscation of the subject illegal drug that was the evidence of the *corpus delicti*, and adversely affecting the trustworthiness of the incrimination of the accused.⁹

While jurisprudence provides that strict compliance with the requirements of Section 21 is not always possible given the wide range of varying field conditions, the Implementing Rules and Regulations of R.A. No. 9165 nonetheless state 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

⁴ *Rollo*, p. 13. See also, *CA rollo*, p. 33.

⁵ *Id.*

⁶ *People v. Supat*, G.R. No. 217027, June 6, 2018, 865 SCRA 45, 68.

⁷ *Id.*

⁸ G.R. No. 192432, June 23, 2014, 727 SCRA 113.

⁹ *Id.* at 128-129.

invalid such seizures and custody over said items.” For this saving clause to apply, the prosecution must first (1) recognize any lapse on the part of the police officers and (2) provide a justifiable explanation for the same.¹⁰

In the instant case, it bears to emphasize that the prosecution neither recognized, much less tried to justify or explain, the police officers’ failure to comply with the mandatory three-witness rule. Breaches of the procedure outlined in Section 21 committed by the police officers, left unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt against the accused as the integrity and evidentiary value of the *corpus delicti* had been compromised.¹¹

The Court also finds that the RTC and CA grievously erred in relying on the presumption of regularity in the performance of official duty because the police officers’ non-compliance with the mandatory procedures in this case, which the courts *a quo* even acknowledged, is an affirmative proof of irregularity.¹² Any unjustified divergence from the prescribed procedure is an irregularity, a red flag that casts reasonable doubt on the identity of the *corpus delicti*.¹³

In light of the foregoing, the Court concludes that the evidence of the *corpus delicti* in this case is unreliable. The acquittal of accused-appellants is therefore warranted.

WHEREFORE, in view of the foregoing, the appeal¹⁴ is hereby **GRANTED**. The Decision dated September 22, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 01210-MIN is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellants Ranya Gatdula Ahmed and Richard Bacharpa y Macarene are **ACQUITTED** of the crime charged on the ground of reasonable doubt.

The Superintendent of the Davao Prison and Penal Farm is **ORDERED** to immediately cause the release of accused-appellants from detention, unless they are being held for some other lawful cause, and to inform this Court of his action hereon within five (5) days from receipt of this Resolution.

¹⁰ *People v. Bricero*, G.R. No. 218428, November 7, 2018, 885 SCRA 1, 29.

¹¹ See *People v. Sumili*, G.R. No. 212160, February 4, 2015, 750 SCRA 143, 152, 154.

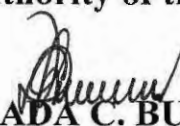
¹² See *People v. Mendoza*, supra note 8, 134-135.

¹³ *People v. Enriquez*, G.R. No. 197550, September 25, 2013, 706 SCRA 337, 353.

¹⁴ *Rollo*, pp. 19-20.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA

Division Clerk of Court *2016*

by:

MARIA TERESA B. SIBULO

Deputy Division Clerk of Court

162-A3

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