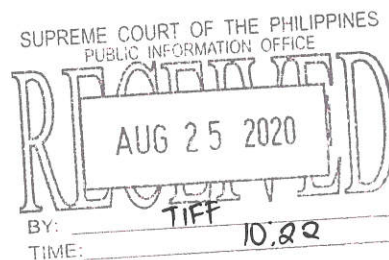




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 7, 2020 which reads as follows:

“G.R. No. 238832 (PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus GLEN EMERSON CABAGBAG Y MATABANG, accused-appellant).- After a careful review of the records of the instant case, the Court reverses and sets aside the assailed Decision¹ dated August 11, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08479, which affirmed the Joint Judgment² dated July 15, 2016 rendered by the Regional Trial Court of Quezon City, Branch 79 (RTC) in Criminal Cases Nos. R-QZN-16-02131 and R-QZN-16-02132, finding the accused-appellant Glen Emerson Cabagbag y Matabang (Cabagbag) 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 by R.A. 10640. The Court acquits accused-appellant Cabagbag for failure of the prosecution to prove his guilt beyond reasonable doubt.

In the conduct of buy-bust operations, Section 21 of R.A. 9165, as amended by R.A. 10640, 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, and (c) a representative from the media, or from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given each a copy thereof.

¹ *Rollo*, pp. 2-24. Penned by Associate Justice Danton Q. Bueser, with Associate Justices Normandie B. Pizarro and Marie Christine Azcarraga-Jacob concurring.

² *CA rollo*, pp. 56-64. Penned by Presiding Judge Nadine Jessica Corazon J. Fama.

mt

In the instant case, both the RTC and the CA recognize that the seized items were only marked and inventoried in the police station, and not immediately at the place of arrest.³ Moreover, both courts agree that of the two required witnesses, only the media representative, Clyde Ocampo, was present to witness the inventory. The requirements of the law were thus not complied with. The seized items were not immediately marked and inventoried, **and when it was done, it was conducted only in the presence of one — the representative from the media — of the two required witnesses. The absence of the elected official, in turn, was not sufficiently explained by the prosecution.**

The Court has held that the presence of these witnesses is necessary to protect against the possibility of planting, contamination, or loss of the seized drug.⁴ Using the language of the Court in *People v. Mendoza*,⁵ without the *insulating presence* of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drugs, the evils of switching, “planting” or contamination of the evidence that had tainted buy-bust operations, negating the integrity and credibility of the seizure and confiscation of the subject sachets that were evidence of the *corpus delicti*, and thus adversely affecting the trustworthiness of the incrimination of the accused.⁶

Concededly, however, there are instances wherein departure from the aforesaid mandatory procedures are permissible. Section 21 of the Implementing Rules and Regulations of R.A. 9165 provides that “non-compliance of 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 and custody over said items.”

For this provision to be effective, however, the prosecution must first (1) recognize any lapse on the part of the police officers and (2) be able to justify the same.⁷

Applying the foregoing in the instant case, it must be stressed that the prosecution failed to recognize the authorities’ failure to obtain the presence of one the mandatory witnesses during the

³ *Rollo*, pp. 7; *CA rollo*, pp. 58-59.

⁴ *People v. Tomawis*, G.R. No. 228890, April 19, 2018, 862 SCRA 131, 149.

⁵ 736 Phil. 749 (2014).

⁶ *Supra* note 4 at 150.

⁷ See *People v. Alagarme*, 754 Phil. 449, 461 (2015).

marking and inventory of the seized specimens. Moreover, the prosecution failed to make any justification for the non-observance of the law.

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.⁸

All in all, there is doubt on the integrity and evidentiary value of the items seized from Cabagbag, thereby casting reasonable doubt on his guilt for the crimes charged.

In light of the foregoing, the Court restores the liberty of Cabagbag.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated August 11, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08479 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Glen Emerson Cabagbag y Matabang 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/she has taken.

⁸ See *People v. Sumili*, 753 Phil. 342, 350 (2015).

SO ORDERED.”

By Authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court

by:



MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

56-B

The Solicitor General
1226 Makati City

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(Crim. Case Nos. R-QZN-16-02131 and
R- QZN-16-02132)

Mr. Glen Emerson M. Cabagbag (x)
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General (x)
Bureau of Corrections
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