



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated November 3, 2020 which reads as follows:*

**“G.R. No. 218395 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus BERNIE SIAPNO y LISING, accused-appellant.**

Upon an exhaustive review of the instant case, the Court **GRANTS** the appeal and **REVERSES** and **SETS ASIDE** the Decision<sup>1</sup> dated June 26, 2014 (assailed Decision) of the Court of Appeals (CA), in CA-G.R. CR-HC No. 05828, which affirmed the Decision<sup>2</sup> dated August 24, 2012 of the Regional Trial Court, Branch 42, Dagupan City (trial court) in Criminal Cases Nos. 2008-0466-D and 2008-0467-D convicting accused-appellant Bernie Siapno y Lising (Siapno) with violations of Sections 5 and 11, Article II of Republic Act No. (R.A.) 9165,<sup>3</sup> otherwise known as the “Dangerous Drugs Act of 2002,” as amended.

In a prosecution for violation of Sections 5 (illegal sale of illicit drugs) and 11 (illegal possession of illicit drugs) of R.A. 9165, there must be proof that these offenses were actually committed, coupled with the presentation in court of evidence of the *corpus delicti*. The State must establish with moral certainty the integrity and identity of the *corpus delicti*.<sup>4</sup> The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.<sup>5</sup>

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<sup>1</sup> *Rollo*, pp 2-17. Penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Stephen C. Cruz and Eduardo B. Peralta, Jr.

<sup>2</sup> *CA rollo*, pp. 48-69. Penned by Presiding Judge A. Florentino R. Dumlao, Jr.

<sup>3</sup> Entitled, “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

<sup>4</sup> See *People v. Del Mundo*, G.R. No. 208095, September 20, 2017, 840 SCRA 327, 338.

<sup>5</sup> *People v. Gayoso*, G.R. No. 206590, March 27, 2017, 821 SCRA 516, 527.

Generally, the prosecution must endeavor to establish four links in the chain of custody of the seized items: *first*, their seizure and marking, if practicable, by the apprehending officer; *second*, their turnover by the apprehending officer to the investigating officer; *third*, their turnover by the investigating officer to the forensic chemist for laboratory examination; and *fourth*, their turnover and submission from the forensic chemist to the court.<sup>6</sup>

The starting point in the custodial link is the **marking** which is the placing by the arresting officer or the poseur-buyer of his/her initials and signature on the items after they have been seized.<sup>7</sup> The Court has held that the marking **must be made immediately upon confiscation and in the presence of the apprehended violator**, as succeeding handlers of the seized specimens will use such markings as reference.<sup>8</sup>

As for the procedures in handling the seized items after the marking, Section 21, Article II of R.A. 9165 and its Implementing Rules and Regulations (IRR) require, among others, that: (1) the seized items be physically inventoried and photographed immediately after seizure or confiscation;<sup>9</sup> (2) the physical inventory, and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) a representative from the media, (c) a representative from the Department of Justice (DOJ), and (d) any elected public official, who shall be required to sign copies of the inventory and be given a copy thereof;<sup>10</sup> and (3) the physical inventory and photographing must be conducted at the (a) place where the search warrant is served, (b) nearest police station or (c) nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizure.<sup>11</sup>

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<sup>6</sup> *People v. Villarta*, G.R. No. 217887, March 14, 2018, 859 SCRA 193, 212.

<sup>7</sup> *People v. Paz*, G.R. No. 233466, August 7, 2019.

<sup>8</sup> *People v. Sabdula*, 733 Phil. 85, 95 (2014); *People v. Lumaya*, G.R. No. 231983, March 7, 2018, 858 SCRA 114, 131; *People v. Ismael*, G.R. No. 208093, February 20, 2017, 818 SCRA 112, 134.

<sup>9</sup> See Sec. 21, Article II of R.A. 9165 that states:

**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.** — x x x

(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;

x x x x

<sup>10</sup> *Id.*

<sup>11</sup> See IRR of R.A. 9165.

In a plethora of cases, the Court has held that **Section 21 requires nothing less than strict compliance with the foregoing requirements.**<sup>12</sup> This is because they guard against tampering, substitution and planting of evidence.<sup>13</sup> Even acts which approximate compliance but do not strictly comply with Section 21 have been considered by the Court as insufficient.<sup>14</sup> Ultimately, non-compliance with Section 21 is tantamount to failure in establishing the identity of the *corpus delicti* — an essential element of the offense of illegal sale of dangerous drugs — thus, engendering the acquittal of the accused.<sup>15</sup>

Hence, the Court, in several cases which include *People v. Garcia*,<sup>16</sup> *People v. Royol*,<sup>17</sup> *People v. Gabriel*,<sup>18</sup> *People v. Del Rosario*,<sup>19</sup> *People v. Ordiz*,<sup>20</sup> *People v. Zapanta*,<sup>21</sup> and *People v. Saragena*,<sup>22</sup> has acquitted the accused due to failure of the apprehending officers to comply with **all** the requirements of Section 21. In these cases, the wholesale violation of Section 21 led to an obvious failure to establish the *corpus delicti* and, hence, the acquittal of the accused based on reasonable doubt.

Similarly, the buy-bust team in the present case likewise demonstrated an absolute disregard not only of the requirements of Section 21 but also of the jurisprudential mandate to immediately mark the seized items.

**First**, as mentioned, the seized illicit drugs were not marked immediately after seizure at the place of confiscation. Instead, the marking was deferred to a later time at the police station.

Marking is the first in the chain of custody's interconnected links; hence, the failure of the authorities to immediately mark the seized drugs would cast reasonable doubt on the authenticity of the

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<sup>12</sup> See *Ramos v. People*, G.R. No. 233572, July 30, 2018, 874 SCRA 595, 609; *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 42, 62; *People v. Suarez*, G.R. No. 223141, June 6, 2018, 865 SCRA 281, 291; *People v. Balubal*, G.R. No. 234033, July 30, 2018, 875 SCRA 1, 19.

<sup>13</sup> *People v. Que*, G.R. No. 212994, January 31, 2018, 853 SCRA 487, 509.

<sup>14</sup> Id.

<sup>15</sup> *People v. Dahil*, 750 Phil. 212, 226 (2014).

<sup>16</sup> 599 Phil. 416 (2009).

<sup>17</sup> G.R. No. 224297, February 13, 2019, 893 SCRA 54.

<sup>18</sup> G.R. No. 228002, June 10, 2019.

<sup>19</sup> G.R. No. 235658, June 22, 2020.

<sup>20</sup> G.R. No. 206767, September 11, 2019.

<sup>21</sup> G.R. No. 230227, November 6, 2019.

<sup>22</sup> 817 Phil. 117 (2017).

*corpus delicti*.<sup>23</sup> In *People v. Lumaya*,<sup>24</sup> the Court emphasized the importance of the immediate marking upon confiscation of the seized items in the preservation of their integrity and evidentiary value, as well as the rationale therefor, thus:

x x x [“]The importance of the prompt marking cannot be denied, because succeeding handlers of dangerous drugs or related items will use the marking as reference. Also, the marking operates to set apart as evidence the dangerous drugs or related items from other material from the moment they are confiscated until they are disposed of at the close of the criminal proceedings, thereby forestalling switching, planting or contamination of evidence. In short, **the marking immediately upon confiscation or recovery of the dangerous drugs or related items is indispensable in the preservation of their integrity and evidentiary value.**” x x x<sup>25</sup>

Thus, an unjustified delay in the marking of the seized drugs renders doubtful the identity and integrity of the *corpus delicti*. This is especially true when, as in this case, the processes succeeding the marking — the physical inventory and photographing — were likewise delayed<sup>26</sup> or improperly done. In such cases, the prompt marking ensures that the items seized from the accused are the same ones later subjected to inventory and photographing.

Thus, in a series of cases that includes *People v. Paz*,<sup>27</sup> *People v. Hementiza*,<sup>28</sup> *People v. Diputado*,<sup>29</sup> *People v. Beran*,<sup>30</sup> *People v. Ismael*,<sup>31</sup> and *People v. Dahil*,<sup>32</sup> where the buy-bust team failed to mark the seized items immediately after confiscation at the place of arrest but only at the barangay hall or police station, and in cases such as *People v. Gonzales*<sup>33</sup> and *People v. Angngao*,<sup>34</sup> where it was not explained where and how the markings were made, the Court acquitted the accused.

**Second**, no proper physical inventory of the seized drugs as marked was made.

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<sup>23</sup> *People v. Dahil*, supra note 15 at 232.

<sup>24</sup> G.R. No. 231983, March 7, 2018, 858 SCRA 114.

<sup>25</sup> Id. at 131-132. Emphasis supplied; underscoring omitted.

<sup>26</sup> See *People v. Beran*, 724 Phil. 788 (2014).

<sup>27</sup> Supra note 7.

<sup>28</sup> G.R. No. 227398, March 22, 2017, 821 SCRA 470.

<sup>29</sup> G.R. No. 213922, July 5, 2017, 830 SCRA 172.

<sup>30</sup> Supra note 26.

<sup>31</sup> Supra note 8.

<sup>32</sup> Supra note 15.

<sup>33</sup> G.R. No. 182417, April 3, 2013, 695 SCRA 123.

<sup>34</sup> G.R. No. 189296, March 11, 2015, 752 SCRA 531.

As mentioned, Section 21 requires that the physical inventory be made immediately upon confiscation.

Here, the apprehending officers prepared a Confiscation Receipt listing the seized sachets of drugs from Siapno at the place of seizure, immediately upon the latter's arrest.<sup>35</sup> However, this was before the marking of said items were made at the police station and without the presence of the required witnesses. In other words, what the Confiscation Receipt listed were *unmarked* seized items.

This is hardly the physical inventory contemplated by R.A. 9165. As mentioned, the marking is the starting point in the custodial link. As such, it must be done immediately, before all other procedures, because succeeding handlers of the drugs are to use the markings as their reference to the seizure, and because it serves to segregate the marked seized illicit drugs from all other pieces of evidence from the time they were seized until their disposal following criminal proceedings.<sup>36</sup> In relation to inventory and photographing, it ensures that the evidence seized upon apprehension is the same subjected to these procedures, especially when the latter activities are undertaken at the police station rather than at the place of arrest.<sup>37</sup>

In *People v. Dahil*<sup>38</sup> (*Dahil*), a case similar to the one at bar, wherein the inventory of the seized drugs was made before the marking and the illicit drugs were subject of several charges for sale and illegal possession, the Court noted that the police officers had no basis to identify the drugs when the inventory and other documents which preceded the marking were prepared, thus:

PO2 Corpuz testified that they only placed their markings on the drugs when they were about to send them to Camp Olivas for forensic examination. This damaging testimony was corroborated by the documentary evidence offered by the prosecution. The following documents were made at the PDEA Office: (1) Joint Affidavit of Arrest, (2) Custodial Investigation Report, (3) inventory of Property Seized, and (4) Laboratory Examination Request. Glaringly, only the Laboratory Examination Request cited the markings on the seized drugs. **Thus, it could only mean that when the other documents were being prepared, the seized drugs had not been marked and the police officers did not have basis for identifying them. Considering that the seized drugs were to be used for**

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<sup>35</sup> CA rollo, p. 51.

<sup>36</sup> *People v. Angngao*, supra note 34 at 543.

<sup>37</sup> See *People v. Beran*, supra note 26 at 819.

<sup>38</sup> Supra note 15.

**different criminal charges, it was imperative for the police officers to properly mark them at the earliest possible opportunity. Here, they failed in such a simple and critical task. The seized drugs were prone to mix-up at the PDEA Office itself because of the delayed markings.<sup>39</sup>**

Following *Dahil*, the apprehending officers here did not have basis to identify the illicit drugs in the inventory as the same were then yet to be marked. Likewise, the illicit drugs were prone to mix-up especially since they were the subject of different charges against Siapno.

The Confiscation Receipt of the unmarked seized drugs which, further, bears none of the signatures of the required witnesses, as will be discussed below, cannot be considered by the Court as a proper inventory within the ambit of Section 21. In a series of cases which include *People v. Garcia*,<sup>40</sup> *People v. Zarraga*,<sup>41</sup> *People v. Gabriel*,<sup>42</sup> *People v. Del Rosario*,<sup>43</sup> *People v. Ordiz*,<sup>44</sup> *People v. Casacop*,<sup>45</sup> and *People v. Zapanta*,<sup>46</sup> the Court ruled for the accused's acquittal due to, among others, failure of the apprehending officers to conduct a physical inventory of the seized drugs.

***Third***, the photographing was not immediately made after the seizure and confiscation at the place of arrest, but was only done later at the police station.<sup>47</sup>

As mentioned, the law requires that the inventory and photographing must be taken immediately upon seizure and confiscation. The phrase "immediately after seizure and confiscation" means that the physical inventory and photographing of the drugs were intended to be made immediately after, or at the place of apprehension.<sup>48</sup> It is only when the same is not practicable that the IRR of R.A. 9165 allow these activities to be done at the police station or nearest office of the apprehending team.<sup>49</sup>

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<sup>39</sup> Id. at 233-234. Emphasis supplied.

<sup>40</sup> G.R. No. 173480, February 25, 2009, 580 SCRA 259.

<sup>41</sup> G.R. No. 162064, March 14, 2006, 484 SCRA 639.

<sup>42</sup> Supra note 18.

<sup>43</sup> Supra note 19.

<sup>44</sup> Supra note 20.

<sup>45</sup> G.R. No. 208685, March 9, 2015, 752 SCRA 151.

<sup>46</sup> Supra note 21.

<sup>47</sup> CA *rollo*, pp. 50-51.

<sup>48</sup> *People v. Manabat*, G.R. No. 242947, July 17, 2019.

<sup>49</sup> Id.

In a catena of cases including *People v. Sebilleno*,<sup>50</sup> *People v. Delaña*,<sup>51</sup> *People Dumanjug*,<sup>52</sup> *People v. Sampa*,<sup>53</sup> and *People v. Urbano*,<sup>54</sup> where the photographing was not made immediately at the place of arrest, and in cases such as *People v. Lumudag*,<sup>55</sup> *People v. Cadungog*,<sup>56</sup> and *People v. Royol*,<sup>57</sup> wherein no photographs were taken at all of the seized items, the Court held that these lapses merited the acquittal of the accused.

**Fourth**, there was failure to comply with the three-witness rule of Section 21. None of the three witnesses was present during the taking of the photographing or physical inventory.

In a plethora of cases, that includes *People v. Mendoza*,<sup>58</sup> *People v. Reyes*,<sup>59</sup> *People v. Sagana*,<sup>60</sup> *People v. Calibod*,<sup>61</sup> *People v. Tomawis*,<sup>62</sup> *Hedreyda v. People*,<sup>63</sup> *People v. Sta. Cruz*,<sup>64</sup> *Tañamor v. People*,<sup>65</sup> *People v. Arellaga*,<sup>66</sup> *People v. Casilag*,<sup>67</sup> *People v. Bangalan*,<sup>68</sup> and *People v. Misa*,<sup>69</sup> the Court has emphasized the importance of the presence of the three required witnesses during the inventory and photographing of the seized items, as the same protects against the possibility of planting, switching, contamination or loss of the seized illicit drugs. The presence of these witnesses should belie any doubt on the source, identity and integrity of the seized illicit drugs. The nature of buy-bust operations being planned makes this requirement easy to observe for the buy-bust team, which has enough time to gather and bring said witnesses to the buy-bust site where the inventory and photographing must be made immediately upon seizure.<sup>70</sup>

Clearly, thus, there was utter failure by the apprehending officers to comply with the initial custodial requirements of the law. Despite this,

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<sup>50</sup> G.R. No. 221457, January 13, 2020.

<sup>51</sup> G.R. No. 243578, June 30, 2020.

<sup>52</sup> G.R. No. 235468, July 1, 2019.

<sup>53</sup> G.R. No. 242160, July 8, 2019.

<sup>54</sup> G.R. No. 216941, June 10, 2019.

<sup>55</sup> G.R. No. 201478, August 23, 2017, 837 SCRA 445.

<sup>56</sup> G.R. No. 229926, April 3, 2019, 900 SCRA 154.

<sup>57</sup> Supra note 17.

<sup>58</sup> 736 Phil. 749 (2014).

<sup>59</sup> G.R. No. 199271, October 19, 2016, 806 SCRA 513.

<sup>60</sup> 815 Phil. 356 (2017).

<sup>61</sup> G.R. No. 230230, November 20, 2017, 845 SCRA 370.

<sup>62</sup> G.R. No. 228890, April 18, 2018, 862 SCRA 131.

<sup>63</sup> G.R. No. 243313, November 27, 2019.

<sup>64</sup> G.R. No. 244256, November 25, 2019.

<sup>65</sup> G.R. No. 228132. March 11, 2020.

<sup>66</sup> G.R. No. 231796. August 24, 2020.

<sup>67</sup> G.R. No. 242159. February 5, 2020.

<sup>68</sup> G.R. No. 232249, September 3, 2018, 878 SCRA 533.

<sup>69</sup> G.R. No. 236838, October 1, 2018, 881 SCRA 254.

<sup>70</sup> *People v. Musor*, G.R. No. 231843, November 7, 2018, 885 SCRA 154, 170-171.

the prosecution's case may still be salvaged under the saving clause of Section 21 of the IRR, which provides 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 and custody over said items." Applying this in a series of cases which includes *People v. Ceralde*,<sup>71</sup> *People v. Flores*,<sup>72</sup> *People v. Alagarme*,<sup>73</sup> *People v. Sanchez*,<sup>74</sup> *People v. Adobar*,<sup>75</sup> *People v. Año*,<sup>76</sup> *People v. Libre*,<sup>77</sup> *People v. Luna*,<sup>78</sup> *People v. Muhammad*,<sup>79</sup> *People v. Que*,<sup>80</sup> and *People v. Lim*,<sup>81</sup> the Court has emphasized that for exemption from strict compliance with Section 21 to attach, the prosecution must prove: 1) the existence of justifiable grounds to allow such departure and 2) that the integrity and evidentiary value of the seized items are properly preserved.

On the first requisite, the prosecution must first recognize the lapses on the part of the apprehending team and thereafter explain the same with justifiable reasons, which must, by themselves, be credible and show earnest efforts to comply with Section 21.<sup>82</sup> Here, the prosecution failed to even acknowledge these deviations from the requirements of law, much less to advance justifiable reasons therefor. This leads to the inevitable consequence that the buy-bust team's non-observance of Section 21 renders the seizure and custody of the confiscated illicit drugs void and invalid.<sup>83</sup>

In sum, the wholesale failure of the apprehending officers in complying with the mandatory procedures of case law and R.A. 9165 in the seizure and handling of the seized illicit drugs, and their corresponding failure to adduce justifiable grounds for such lapses, create reasonable doubt on the integrity and identity of the *corpus delicti*, hence, reasonable doubt on the very guilt of Siapno. As such, he must be acquitted.

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<sup>71</sup> 815 Phil. 711 (2017).

<sup>72</sup> G.R. No. 234048, April 23, 2018, 862 SCRA 521.

<sup>73</sup> 754 Phil. 449 (2015).

<sup>74</sup> 590 Phil. 214 (2008).

<sup>75</sup> G.R. No. 222559, June 6, 2018, 865 SCRA 220.

<sup>76</sup> 828 Phil. 439 (2018).

<sup>77</sup> G.R. No. 235980, August 20, 2018, 878 SCRA 260.

<sup>78</sup> G.R. No. 219164, March 21, 2018, 860 SCRA 1.

<sup>79</sup> G.R. No. 218803, July 10, 2019.

<sup>80</sup> *Supra* note 13.

<sup>81</sup> G.R. No. 231989, September 4, 2018.

<sup>82</sup> *People v. Cayas*, G.R. No. 206888, July 4, 2016, 795 SCRA 459, 469; *People v. Patacsil*, G.R. No. 234052, August 6, 2018, 876 SCRA 348, 367.

<sup>83</sup> See Sec. 21 of the IRR.



**WHEREFORE**, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated June 26, 2014 of the Court of Appeals in CA-G.R. CR-HC No. 05828 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **BERNIE SIAPNO y LISING** is **ACQUITTED** of the crimes charged for failure of the prosecution to establish his guilt beyond reasonable doubt. He is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished the Director of the New Bilibid Prison, Muntinlupa City, for immediate implementation. The said Director is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he has taken.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**

Division Clerk of Court *Librada C. Buena*

by:

**MARIA TERESA B. SIBULO**

Deputy Division Clerk of Court

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(CA-G.R. CR HC No. 05828)

The Hon. Presiding Judge  
Regional Trial Court, Branch 42  
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(Crim. Case Nos. 2008-0466-D  
& 2008-0467-D)

The Director General (x)  
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