



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 26, 2020 which reads as follows:

“G.R. No. 248146 – RANSEL DAMO y DONATO, petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.

After a careful review of the records of the instant case, the Court reverses and sets aside the Decision¹ dated March 13, 2019 and the Resolution² dated June 21, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 41096, which affirmed the Decision³ dated December 11, 2017 by the Regional Trial Court (RTC) of Aparri, Cagayan, Branch 7, in Criminal Case No. II-12370 entitled *People of the Philippines v. Ransel Damo y Donato* (Damo), finding Damo guilty beyond reasonable doubt for violation of Section 11 of Republic Act (R.A.) No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” as amended.

Prosecution for illegal possession of prohibited drugs necessitates that the elemental act of possession of a prohibited substance be established with moral certainty, together with the fact that the possession is not authorized by law.⁴ The prohibited drug is the *corpus delicti* of the crime⁵ which must be established with moral certainty.⁶ In arriving at this certainty, the very nature of prohibited drugs, they being susceptible to tampering and error, circumscribes the burden of the State in prosecuting the crime.

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¹ *Rollo*, pp. 28-45. Penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justices Jhosep Y. Lopez and Marie Christine Azcarraga-Jacob concurring.

² *Id.* at 47-50.

³ *Id.* at 66-71. Rendered by Judge Oscar T. Zaldivar.

⁴ *Mallillin v. People*, 576 Phil. 576, 586 (2008).

⁵ *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 369; *People v. Sanchez*, G.R. No. 231383, March 7, 2018, 858 SCRA 94, 104; *People v. Magsano*, G.R. No. 231050, February 28, 2018, 857 SCRA 142, 152; *People of the Philippines v. Raul Manansala y Maninang*, G.R. No. 229092, February 21, 2018.

⁶ *People v. Gamboa*, G.R. No. 233702, June 20, 2018, 867 SCRA 548, 570, citing *People v. Umpang*, 686 Phil. 1024, 1039-1040 (2012).

To establish the requisite identity of the dangerous drug, the prosecution must be able to account for each link of the chain of custody from the moment the drug is seized up to its presentation in court as evidence.⁷ Under Section 21, Article II of R.A. No. 9165, as amended by R.A. No. 10640, the following procedure must be observed in the seizure, custody, and disposition of dangerous drugs:

SEC. 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 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:

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, **immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official **and a representative of the National Prosecution Service or the media 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, finally*, That noncompliance of these requirements under justifiable ground, 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. (Emphasis supplied)

In this case, the apprehending team failed to comply with the witness requirement under the law. The records show that only two elected public officials were present during the inventory of the seized item.⁸ No representative from the National Prosecution Office or from the media witnessed the operation.

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⁷ *People v. Año*, G.R. No. 230070, March 14, 2018, 859 SCRA 380, 389.

⁸ *Rollo*, p. 67.

To be clear, while mandatory compliance with the chain of custody procedure remains to be the rule,⁹ this Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.¹⁰ Deviation therefrom may only be allowed if and only if the twin standards in the saving clause of Section 21, R.A. No. 9165, as amended, are met: (1) that there exists justifiable grounds necessitating a departure from the rule on strict compliance; and (2) that the integrity and evidentiary value of the seized items are properly preserved by the apprehending team.¹¹

According to the Joint Affidavit of Arrest¹² dated October 11, 2014, Police Inspector Paulino Lucson (PI Lucson) “coordinated with members of MEDIA and members of (Department of Justice [DOJ]) but there were no available representative[s].”¹³ The CA noted that on cross-examination, PI Lucson admitted that he “did not call anyone in particular.”¹⁴ A revisit of PI Lucson’s testimony before the trial court failed to show any serious attempt to secure the required witnesses apart from the initial attempt at calling the DOJ and media representatives.¹⁵

Non-compliance with the required witness rule may only be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses.¹⁶ Mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable.¹⁷

The failure to secure the required witnesses becomes more glaring and unjustified when the Court considers the fact that Damo was apprehended and the dangerous drug was seized pursuant to a search warrant. The search warrant was issued on October 2, 2014¹⁸ and was served on the accused on October 10, 2014, more than a week after its issuance.¹⁹ Considering the time that they had, with more reason the apprehending officers should have secured the presence of all witnesses. However, despite the advantage of being

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⁹ *People v. Cayas*, 789 Phil. 70, 79 (2016); *People v. Havana*, 776 Phil. 462, 475 (2016).

¹⁰ *People v. Sanchez*, 590 Phil. 214, 234 (2008).

¹¹ *See Rolando P. Dizon v. People of the Philippines*, G.R. No. 239399, March 25, 2019.

¹² Records, pp. 12-19.

¹³ *Id.* at 12-15.

¹⁴ *Rollo*, p. 32.

¹⁵ *See TSN*, May 20, 2015, pp. 4-7.

¹⁶ *People of the Philippines v. Wilt Sam Bangalan y Mamba*, G.R. No. 232249, September 3, 2018.

¹⁷ *Id.*

¹⁸ *See rollo*, p. 31.

¹⁹ *Id.*

able to plan the operation ahead, the apprehending team failed to comply with the basic and stringent requirements of Section 21 of R.A. No. 9165, as amended. To drive the point further, the importance of the presence of the witnesses was explained by the Court in *People v. Luna*:²⁰

The reason for this is dictated by simple logic: these witnesses are presumed to be disinterested third parties insofar as the buy-bust operation is concerned. Hence, it is at the time of arrest — or at the time of the drugs' "seizure and confiscation" — that the insulating presence of the witnesses is most needed, as **it is their presence at the time of seizure and confiscation that would foreclose the pernicious practice of planting of evidence.** x x x.²¹ (Emphasis in the original)

From the foregoing, considering that no justifiable grounds for the failure to secure the required witnesses were presented by the prosecution, the integrity and evidentiary value of the seized drug had not been properly preserved by the apprehending team.

The Court has held in previous instances that lapses in the procedure under Section 21 of R.A. No. 9165, when left unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt as the integrity and evidentiary value of the *corpus delicti* would have been compromised.²² That being said, the acquittal of Damo is in order.

WHEREFORE, all premises considered, the petition is **GRANTED**. The Decision dated March 13, 2019 and the Resolution dated June 21, 2019 of the Court of Appeals in CA-G.R. CR No. 41096 are hereby **REVERSED** and **SET ASIDE**. Petitioner Ransel Damo y Donato is hereby **ACQUITTED** of the crime charged for failure of the prosecution to prove his guilt beyond 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.

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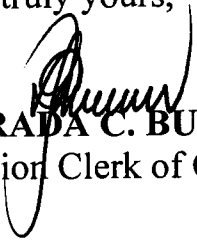
²⁰ G.R. No. 219164, March 21, 2018, 860 SCRA 1.

²¹ Id. at 23-24.

²² See *People of the Philippines v. Alvin Fatallo y Alecarte a.k.a. "Alvin Patallo y Alecarte"*, G.R. No. 218805, November 7, 2018.

SO ORDERED.” J. Reyes, Jr, J., on official leave.

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *m7/5*
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