



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 230718

Plaintiff-Appellee,

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,

- versus -

HERNANDO,
 INTING,
 DELOS SANTOS, and
 BALTAZAR-PADILLA,* JJ.

CRISANTO HAYA y DELOS SANTOS Promulgated:

Accused-Appellant.

16 SEP 2020

X-----X

RESOLUTION

INTING, J.:

In a Resolution¹ dated August 1, 2018, the Court affirmed the Decision² dated August 17, 2016 of the Court of Appeals (CA) in CA G.R. CR.-H.C. No. 06277 which upheld the conviction of Crisanto Haya y Delos Santos (accused-appellant) for violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165 or the Comprehensive Dangerous Drugs Act of 2002.

Accused-appellant moved for reconsideration³ of the Resolution arguing that the prosecution failed to sufficiently prove his guilt. He pointed that only a field reporter was present as a witness during the

* On leave.

¹ *Rollo*, pp. 36-37.

² *Id.* at 2-13. Penned by Associate Justice Melchor Q.C. Sadang, with Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier (now a Member of the Court), concurring.

³ *Id.* at 38-42.

inventory and there were no representative from the Department of Justice (DOJ) and elected public official. There was also no indication that the police officers even attempted to comply with the requirements of the law.⁴

As will be discussed, there is a need to reconsider and set aside the Resolution dated August 1, 2018 and enter a new one acquitting accused-appellant.

Accused-appellant was charged with the offenses of Illegal Sale and Possession of Dangerous Drugs committed in 2010 or prior to the amendment of RA 9165. Hence, the applicable law is the original provision of Section 21 and its Implementing Rules and Regulations. Accordingly, in the conduct of buy-bust operations, (1) the seized items must be marked, inventoried, and photographed immediately after seizure or confiscation; and (2) the marking, 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 DOJ, all of whom shall be required to sign the copies of the inventory and be given a copy thereof.⁵

In a number of cases, the Court held that the presence of witnesses from the DOJ, media, and any elected public officer is *necessary* to protect against the possibility of planting, contamination, or loss of the seized drug. 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 drug, the evils of switching, “planting” or contamination of the evidence that had tainted previous buy-bust operations would not be averted, negating the integrity and credibility of the seizure and confiscation of the subject drug specimen that was evidence of the *corpus delicti*, and thus adversely affecting the trustworthiness of the incrimination of the accused.⁶

In the case at bar, noticeably, the seized items were not marked immediately at the place of arrest. Although the physical inventory and taking of photographs may be conducted at the nearest police station, or

⁴ *Rollo*, pp. 38 and 39.

⁵ *People v. Enoval*, G.R. No. 245973 (Notice), February 5, 2020.

⁶ *Id.*, citing *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131 and *People v. Mendoza*, 736 Phil. 749, 761 (2014).

office of the apprehending team in case of warrantless seizures, nothing prevents the police officers from immediately conducting these steps at the place where the items were seized. Considering that the seized items were to be used against accused-appellant, it was imperative for the police officers to mark them at once without delay. This is material since the penalty to be imposed for illegal possession of drugs depends upon the quantity or weight thereof.

Additionally, the rest of the inventory process was undertaken without the presence of a representative from the DOJ and an elected public official as mandatorily required under Section 21, Article II of RA 9165. As indicated in the Inventory of Drug Seized/Items,⁷ only a representative from the media, one Maeng Santos, a field reporter, witnessed the marking of the purportedly retrieved drug specimens. In *People v. Sipin*,⁸ the Court discussed:

The prosecution bears the burden of proving a valid cause for non-compliance with the procedure laid down in Section 21 of R.A. No. 9165, as amended. *It has the positive duty to demonstrate observance thereto in such a way that during the trial proceedings, it must initiate in acknowledging and justifying any perceived deviations from the requirements of law. Its failure to follow the mandated procedure must be adequately explained, and must be proven as a fact in accordance with the rules on evidence.* It should take note that the rules require that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit, coupled with a statement on the steps they took to preserve the integrity of the seized items. Strict adherence to Section 21 is required where the quantity of illegal drugs seized is miniscule, since it is highly susceptible to planting, tampering or alteration of evidence. (Italics supplied.)

While there are instances wherein departure from the procedures is allowed, it is incumbent upon the prosecution to (1) recognize any lapse on the part of the police officers and (2) be able to justify the same.⁹ Specifically, it must be alleged and proved that the presence of these insulating witnesses to the physical inventory and photograph of the seized illegal drugs was not obtained because:

x x x (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

⁷ Records, p. 122.

⁸ G.R. No. 224290. April 23, 2018

⁹ *People v. Enoval*, *supra* note 5, citing *People v. Alagarme*, 754 Phil. 449, 461 (2015).

retaliatory action of the accused or any persons acting for and in his/her behalf; (3) the elected officials 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.¹⁰

What is more, earnest effort to secure the attendance of the witnesses must be properly proven; thus:

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witnesses under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that earnest efforts were employed in contacting the representatives enumerated under the law for “a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.” Verily, *mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance.* These considerations arise from the fact that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, *police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.*¹¹ (Italics supplied; underscoring omitted.)

Here, the prosecution failed to recognize and explain the serious procedural lapses in the marking, physical inventory, and photography of the seized items. It failed to explain why the police officers did not

¹⁰ *People v. Sipin*, *supra* note 8.

¹¹ *People v. Ramos*, 826 Phil. 881, 996 (2018).

secure the presence of an elected public official and a representative from the DOJ. The testimonies of the prosecution witnesses likewise failed to establish that there was an earnest effort to coordinate with and secure the presence of the witnesses at the onset of the operation.

In this light, prosecutors are strongly reminded that they have the positive duty to prove compliance with the procedure set forth in the law. They must have the initiative to not only acknowledge, but moreso justify any perceived deviations from the procedure during the proceedings before the trial court. Since compliance with this procedure is determinative of the integrity and evidentiary value of the *corpus delicti* and ultimately, the fate of the liberty of the accused, the fact that any issue regarding the same was not raised, or even threshed out in the court/s below, would not preclude the appellate court, including the Court, from fully examining the records of the case if only to ascertain whether the procedure had been completely complied with, and if not, whether justifiable reasons exist to excuse any deviation. If no such reasons exist, then it is the appellate court's bounden duty to acquit the accused, and perforce, overturn a conviction.¹²

Under the circumstances, the breaches committed by the police officers, left unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt against accused-appellant as the integrity and evidentiary value of the *corpus delicti*, the 10 plastic sachets of marijuana, have been compromised.¹³

WHEREFORE, the Court resolves to: (a) **SET ASIDE** the Court's Resolution dated August 1, 2018; and (b) **GRANTS** the appeal of accused-appellant Crisanto Haya y Delos Santos. The Decision dated August 17, 2016 of the Court of Appeals in CA-G.R. CR.-H.C. No. 06277 is hereby **REVERSED** and **SET ASIDE**. Accused-appellant Crisanto Haya y Delos Santos is **ACQUITTED** of the offenses charged on the ground of reasonable doubt.

The Director of the Bureau of Corrections, Muntinlupa City is **ORDERED** to: (a) cause the immediate release of accused-appellant Crisanto Haya y Delos Santos unless he is being held in custody for any

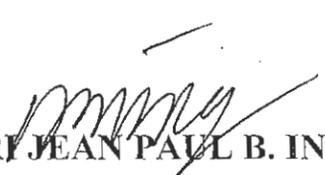
¹² *People v. Ramos*, *supra* note 11.

¹³ *People v. Enoval*, *supra* note 5, citing *People v. Sumili*, 753 Phil. 342, 352 (2015).

other lawful reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice

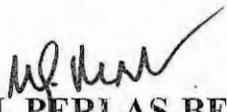


EDGARDO L. DELOS SANTOS
Associate Justice

(On leave)
PRISCILLA BALTAZAR PADILLA
Associate Justice

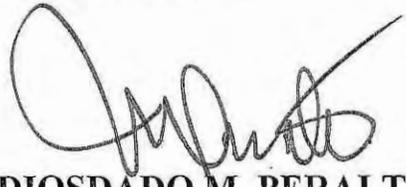
ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Chief Justice

