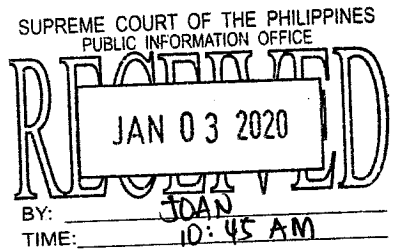




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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **October 9, 2019**, which reads as follows:*

“G.R. No. 242272 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. ROMMEL CAMASIN y PARADO, RAMON ANGELO III y GO, MELODY DE RAMA y TENORIO, and CLEMENTE CUEVAS y MARTINEZ, *accused*; ROMMEL CAMASIN y PARADO and MELODY DE RAMA y TENORIO, *accused-appellants*). — Strict compliance with the requirements of Section 21 of Republic Act No. 9165 is necessary to preserve the *corpus delicti*'s integrity in charges of illegal sale and possession of dangerous drugs. The only exception is when the prosecution can prove a justifiable ground for noncompliance.

This Court resolves an appeal from the Decision¹ of the Court of Appeals, which affirmed the Regional Trial Court Decision² convicting Rommel Camasin y Parado (Camasin) of illegal sale and illegal possession of dangerous drugs, and Melody De Rama y Tenorio (De Rama) of illegal possession of dangerous drugs.

On July 20, 2015, Camasin was charged in two (2) separate Informations with violations of Sections 5 and 11 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002. The accusatory portions read:

[Criminal Case No. 25100-2015-C (City)]

That on 16 July 2015 in City of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused [ROMMEL CAMASIN y Parado] without any authority of law, did then and there

¹ *Rollo*, pp. 2–14. The Court of Appeals Decision dated April 20, 2018 was penned by Associate Justice Jose C. Reyes, Jr. (now a member of this Court) and concurred in by Associate Justices Franchito N. Diamante and Maria Elisa Sempio Diy of the Fourth Division, Court of Appeals, Manila.

² *CA rollo*, pp. 55–75. The Regional Trial Court Decision dated August 17, 2016 was penned by Presiding Judge Maria Florencia B. Formes-Baculo of Branch 34, Regional Trial Court, Calamba City.

willfully, unlawfully and feloniously sell to a poseur buyer a quantity of methamphetamine hydrochloride otherwise known as shabu, a dangerous drug, having a total weight of 0.11 gram/s, in violation of the aforementioned law.

CONTRARY TO LAW.³

[Criminal Case No. 25101-2015-C (City)]

That on 16 July 2015 in the City of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused [ROMMEL CAMASIN y Parado] without any authority of law, did then and there willfully, unlawfully and feloniously possess one (1) heat sealed transparent plastic sachet of methamphetamine hydrochloride otherwise known as shabu, a dangerous drug, having a total weight of 2.10 gram/s, in violation of the aforementioned law.

CONTRARY TO LAW.⁴

That same day, De Rama was also charged in two (2) separate Informations of violations of Sections 11 and 12 of the Comprehensive Dangerous Drugs Act. The accusatory portions read:

[Criminal Case No. 25103-2015-C (City)]

That on 16 July 2015 in City of Calamba Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused [MELODY DE RAMA y Tenorio] without any authority of law, did then and there willfully, unlawfully and feloniously have in her possession, custody and control equipment or paraphernalia used and intended for sniffing shabu, a dangerous drug, in violation of the above-mentioned law.

CONTRARY TO LAW.⁵

[Criminal Case No. 25104-2015-C (City)]

That on 16 July 2015 in City of Calamba Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused [MELODY DE RAMA y Tenorio] without any authority of law, did then and there willfully, unlawfully and feloniously possess one (1) heat sealed transparent plastic sachet of dried marijuana fruiting tops, a dangerous drug, having a total weight of 2.15 gram/s, in violation of the aforementioned law.

³ *Rollo*, pp. 2-3, CA Decision.

⁴ *Id* at 3.

⁵ *Id*.

CONTRARY TO LAW.⁶

Separate Informations were also filed against Ramon Angelo y Go (Angelo) for illegal possession of drug paraphernalia and Clemente Cuevas y Martinez (Cuevas) for illegal use of dangerous drugs and illegal possession of drug paraphernalia.⁷

On September 7, 2015, the four (4) accused were arraigned. All of them pleaded not guilty to the charges against them.⁸ Trial on the merits then ensued.

The prosecution presented PO3 Alexis Amador (PO3 Amador) and PO1 Paul Joseph Consulta (PO1 Consulta) as its witnesses. It alleged that on July 16, 2015, a confidential informant of the Barangay Information Network reported that Camasin was selling illegal drugs at a resort in Purok 5, Pansol, Calamba City.⁹

Acting on the tip, the officers coordinated with the Philippine Drug Enforcement Agency and created a team to conduct a buy-bust operation. Designated as the poseur-buyer, PO3 Amador was given a ₱100.00 bill with serial number DT665143 and a ₱200.00 bill with serial number KZ581892 as buy-bust money.¹⁰

At around 2:20 p.m. that day, the police officers arrived at the target site. PO3 Amador and the informant proceeded to the resort while the other police officers stayed outside to wait for the signal. The informant knocked on the resort gate, and was met by a person who was later identified as Camasin. Camasin asked them what they want, to which the informant answered, "*pare meron pa ba?*"¹¹ Then, Camasin replied, "*meron pa pare magkano ba?*"¹² The informant answered that he had ₱300.00.¹³

Camasin then told PO3 Amador and the informant to wait at the gate while he went inside the resort. A few minutes later, he returned and gave PO3 Amador one (1) plastic sachet containing white crystalline substance. After the transaction, the informant went out of the gate, which was the pre-arranged signal for the other police officers that the sale had been consummated. PO3 Amador arrested Camasin and informed him of his constitutional rights.¹⁴

⁶ Id.

⁷ Id. at 3-4 and CA *rollo*, pp. 57-58.

⁸ Id. at 4 and CA *rollo*, pp. 58-59.

⁹ Id. at 4.

¹⁰ CA *rollo*, p. 60.

¹¹ *Rollo*, p. 4.

¹² Id.

¹³ Id.

¹⁴ Id.

PO3 Amador frisked Camasin and recovered another plastic sachet of white crystalline substance from him. He marked the said sachet with "PNP-BB," and the other sachet recovered from frisking with "RPC-1."¹⁵

The other police officers, meanwhile, went in one (1) of the rooms that was open. Inside were Angelo, De Rama, and Cuevas. The latter two were caught in the act of sniffing shabu and holding various drug paraphernalia upon arrest. PO1 Consulta recovered a plastic sachet containing dried marijuana leaves in De Rama's left hand, while drug paraphernalia were confiscated from Angelo and Cuevas. He marked these items before turning them over to PO3 Amador,¹⁶ who then took photos of the accused and the seized items.¹⁷

Afterwards, the police officers brought all four (4) accused to the barangay hall.¹⁸ There, PO3 Amador inventoried the seized items in the presence of barangay official Sally Cruz (Cruz) and media representative Ronald de Leon (de Leon). The officers also recorded the buy-bust operation and arrest in the barangay blotter.¹⁹

Afterwards, the police officers brought the accused to the police station, where they prepared the spot report and Requests for Laboratory Examination and Drug Test. PO3 Amador and PO1 Consulta then brought the seized sachets to the Crime Laboratory,²⁰ while the other seized drug paraphernalia were brought to the Prosecutor's Office.²¹ Upon examination, the seized sachets were found positive for shabu and marijuana. Meanwhile, all the accused were also subjected to drug testing.²²

The defense, on the other hand, presented Camasin, De Rama, and Cuevas as its witnesses.

Camasin testified that at around 3:00 p.m. on July 16, 2015, he was with his common-law wife De Rama at the Villa Angelo Resort, Pansol, Calamba City to make a reservation for De Rama's birthday celebration.²³ While they were in the resort, four (4) armed men approached him and asked who his companions were. He answered that he was only with De Rama. Then, the police officers entered the room where De Rama was staying and searched it.²⁴

¹⁵ Id.

¹⁶ CA rollo, pp. 62-63.

¹⁷ Id. at 62.

¹⁸ Rollo, p. 4.

¹⁹ CA rollo, pp. 60-62.

²⁰ Rollo, pp. 4-5.

²¹ CA rollo, p. 60.

²² Rollo, p. 5.

²³ Id. at 5 and CA rollo, p. 63.

²⁴ CA rollo, p. 63.

Camasin was then arrested with De Rama, after which they were brought to the police station. He alleged that he only learned of the charges against him at the police station and that he only saw the drugs supposedly seized from him when they were presented during trial.²⁵

De Rama corroborated Camasin's testimony.²⁶

Cuevas, on the other hand, was a pool agent who would recommend customers for a percentage of the pool rental income. He testified that at around 2:00 p.m. on July 16, 2015, he was at the Villa Angelo Resort to ask the resort's owner, Angelo, if he had customers for the following week. He was just about to leave the resort when some armed men arrived and arrested him. He alleged that he only learned of the charges against him during the inquest proceedings.²⁷

As for Angelo's testimony, the prosecution and defense stipulated that it corroborated those of the other accused. Thus, the defense dispensed with the presentation of his testimony.²⁸

In an August 17, 2016 Decision,²⁹ the Regional Trial Court held that the prosecution established beyond reasonable doubt Camasin's guilt for illegal sale and possession of dangerous drugs, and De Rama's guilt for illegal possession of dangerous drugs.³⁰ It found that the testimony of the prosecution's witnesses duly established all the elements of the crimes charged against them.³¹ It also held that the identity and integrity of the seized illegal drugs were preserved.³²

However, the trial court acquitted De Rama of the charge of illegal possession of drug paraphernalia. Angelo and Cuevas were also acquitted of the charges against them.³³

The dispositive portion of the Decision read:

²⁵ Id. at 64.

²⁶ Id. at 64-65 and *rollo*, p. 5.

²⁷ Id. at 65-66.

²⁸ Id. at 66.

²⁹ Id. at 55-75.

³⁰ Id. at 66.

³¹ Id. at 67.

³² Id. at 68.

³³ Id. at 66.

WHEREFORE, premises considered, the Court renders Judgment as follows:

- (1) Finding accused ROMMEL CAMASIN y PARADO GUILTY beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. 9165 by selling 0.11 gram of shabu in a buy-bust operation and for possessing 2.10 grams of shabu is accordingly SENTENCED to serve Life Imprisonment and to pay a Fine of Five Hundred Thousand Pesos (P500,000.00) for violation of Section 5 in Criminal Case No. 25100-2015-C (City) and Twelve (12) Years and One (1) Day, as minimum, to Fifteen (15) Years, as maximum, and to pay a Fine of Three Hundred Thousand Pesos (P300,000.00) for violation of Section 11 in Criminal Case No. 25101-2015-C (City).
- (2) Finding accused MELODY DE RAMA y TENORIO GUILTY beyond reasonable doubt in Criminal Case No. 25104-2015-C (City) for illegal possession of illicit drugs as defined and penalized under Section 11, Article II of Republic Act No. 9165 and is hereby sentenced to serve the indeterminate sentence of Twelve (12) Years and One (1) day, as minimum, to Fifteen (15) Years, as maximum, and to pay a Fine in the amount of Three Hundred Thousand Pesos (P300,000.00).
- (3) ACQUITTING accused MELODY DE RAMA y TENORIO in Criminal Case No. 25103-2015-C (City) for violation of Section 12, Article II of Republic Act No. 9165.
- (4) ACQUITTING accused RAMON ANGELO y GO in Criminal Case No. 25102-2015-C (City) for violation of Section 12, Article II of Republic Act No. 9165.
- (5) ACQUITTING accused CLEMENTE CUEVAS y MARTINEZ in Criminal Case Nos. 25105-2015-C (City) and 25106-2015-C (City) for violation of Sections 12 and 15, Article II of Republic Act No. 9165. Accordingly, accused CLEMENTE CUEVAS y MARTINEZ is hereby ordered released from detention unless he is being detained for other lawful causes.

The two (2) transparent plastic sachets containing an aggregate weight of 2.21 grams of Methamphetamine Hydrochloride and one (1) transparent plastic sachet containing 2.15 grams of dried Marijuana leaves are ORDERED to be transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper disposition in accordance with law.

SO ORDERED.³⁴

Aggrieved, Camasin and De Rama filed a Notice of Appeal,³⁵ which was given due course by the Regional Trial Court.³⁶

³⁴ Id. at 74-75.

³⁵ Id. at 15-16.

³⁶ Id. at 17.

On April 20, 2018, the Court of Appeals rendered a Decision³⁷ affirming Camasin's and De Rama's convictions.

The Court of Appeals found that the testimonies of the prosecution's witnesses established that Camasin and De Rama committed the offenses charged against them.³⁸ It also held that the chain of custody was not broken and the integrity of the seized items was preserved.³⁹

As to the defense's argument that the forensic chemist was not presented in court and that there was no stipulation of the Chemistry Report's authenticity and due execution, the Court of Appeals held that both parties manifested during pre-trial that they were adopting the minutes of the preliminary conference, which included a stipulation on the due execution and authenticity of the Chemistry Report.⁴⁰

Lastly, the Court of Appeals upheld the presumption of regularity in the performance of the police officers' official duty, as it found no ill motive on their part.⁴¹

The dispositive portion of the Decision read:

WHEREFORE, the appeal is DENIED for lack of merit. The Decision dated August 17, 2016 of the Regional Trial Court (RTC), Branch 34, Calamba City, Laguna in Criminal Case Nos. 25100-2015-C, 25101-2015-C and 25104-2015-C are hereby AFFIRMED.

SO ORDERED.⁴²

Accused-appellants Camasin and De Rama filed a Compliance and Notice of Appeal,⁴³ which the Court of Appeals gave due course to in its July 9, 2018 Resolution.⁴⁴

In a November 19, 2018 Resolution,⁴⁵ this Court acknowledged receipt of the records forwarded by the Court of Appeals and directed the parties to file their supplemental briefs.

³⁷ *Rollo*, pp. 2-14.

³⁸ *Id.* at 11.

³⁹ *Id.* at 13.

⁴⁰ *Id.*

⁴¹ *Id.* at 14.

⁴² *Id.*

⁴³ *Id.* at 15-18.

⁴⁴ *Id.* at 19.

⁴⁵ *Id.* at 21-22.

Both accused-appellants⁴⁶ and the Office of the Solicitor General, on behalf of plaintiff-appellee People of the Philippines,⁴⁷ manifested that they would no longer file supplemental briefs and instead adopt their briefs filed before the Court of Appeals.

In their Brief,⁴⁸ accused-appellants argue that there were gaps in the chain of custody. They claim that the prosecution failed to present the forensic chemist during trial to prove the Chemistry Report's authenticity and due execution. They also fault the prosecution for failing to establish who brought the seized items to the court.⁴⁹

Moreover, accused-appellants point out the arresting officers' failure to comply with Section 21 of Republic Act No. 9165, which was apparent from the absence of media and Department of Justice representatives. They also raise the absence of any justifiable ground for such noncompliance.⁵⁰

In its Brief,⁵¹ the Office of the Solicitor General argues that the prosecution and the defense have already stipulated on the due execution and authenticity of the Chemistry Report in the Minutes of the Preliminary Conference, which was adopted by both parties in the pre-trial conference.⁵² Moreover, it contends that the inventory was witnessed by a barangay official and a media representative.⁵³

The case presents two (2) issues for this Court's resolution:

First, whether or not the prosecution was able to prove accused-appellant Rommel Camasin y Parado's guilt for the illegal sale and possession of dangerous drugs beyond reasonable doubt; and

Second, whether or not the prosecution was able to prove accused-appellant Melody De Rama y Tenorio's guilt for the illegal possession of dangerous drugs beyond reasonable doubt.

In criminal cases, the prosecution must prove the accused's guilt beyond reasonable doubt for a conviction to ensue. This is provided in Article III, Section 14(2) of the Constitution:

⁴⁶ Id. at 34-38.

⁴⁷ Id. at 28-33.

⁴⁸ CA *rollo*, pp. 31-54.

⁴⁹ Id. at 42.

⁵⁰ Id. at 46.

⁵¹ Id. at 90-112.

⁵² Id. at 103.

⁵³ Id. at 108.

SECTION 14. (1) No person shall be held to answer for a criminal offense without due process of law.

(2) In all criminal prosecutions, *the accused shall be presumed innocent until the contrary is proved*, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable. (Emphasis supplied)

Following this constitutional mandate, Rule 133, Section 2 of the Revised Rules on Evidence lays the required quantum of proof for criminal cases:

SECTION 2. *Proof beyond reasonable doubt.* — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

Thus, for a conviction to ensue, the prosecution must prove with moral certainty that all the elements of an offense are satisfied.

The illegal sale of dangerous drugs has two (2) elements, namely: “(1) proof that the transaction or sale took place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.”⁵⁴ As for the illegal possession of dangerous drugs, its elements are the following: “(a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.”⁵⁵

Since the drug itself is the *corpus delicti* in drug cases, preserving the chain of its custody is indispensable. Consequently, it must be proven with moral certainty that the drug presented as evidence in court is the same drug that was seized from an accused.

Section 21(1) of Republic Act No. 9165, as amended by Republic Act No. 10640, specifies the requirements for the apprehending team’s custody of the seized illegal drugs:

⁵⁴ *People v. Morales*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division] citing *People v. Darisan*, 597 Phil. 479 (2009) [Per J. Corona, First Division].

⁵⁵ *Anyayahan v. People*, G.R. No. 229787, June 20, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64228>> [Per J. Perlas-Bernabe, Second Division] citing *People v. Bio*, 753 Phil. 730, 736 (2015) [Per J. Del Castillo, Second Division].

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.* — 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 persons 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 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. (Emphasis supplied)*

*Lescano v. People*⁵⁶ summarizes Section 21(1)'s requirements:

As regards the items seized and subjected to marking, Section 21(1) of the Comprehensive Dangerous Drugs Act, as amended, requires the performance of two (2) actions: physical inventory and photographing. Section 21(1) is specific as to when and where these actions must be done. As to when, it must be "immediately after seizure and confiscation." As to where, it depends on whether the seizure was supported by a search warrant. If a search warrant was served, the physical inventory and photographing must be done at the exact same place that the search warrant is served. In case of warrantless seizures, these actions must be done "at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable."

Moreover, Section 21(1) requires at least three (3) persons to be present during the physical inventory and photographing. These persons are: first, the accused or the person/s from whom the items were seized; second, an elected public official; and third, a representative of the National Prosecution Service. There are, however, alternatives to the first and the third. As to the first (*i.e.*, the accused or the person/s from whom items were seized), there are two (2) alternatives: first, his or her

⁵⁶ 778 Phil. 460 (2016) [Per J. Leonen, Second Division].

representative; and second, his or her counsel. As to the representative of the National Prosecution Service, a representative of the media may be present in his or her place.⁵⁷ (Emphasis supplied)

A failure to follow these requirements results in “a concomitant failure on the part of the prosecution to establish the identity of the *corpus delicti*”;⁵⁸ this, in turn, is a failure to prove an accused’s guilt beyond reasonable doubt. The rationale behind this is that:

It is not enough that the evidence offered has probative value on the issues, for the evidence must also be sufficiently connected to and tied with the facts in issue. *The evidence is not relevant merely because it is available but that it has an actual connection with the transaction involved and with the parties thereto.* This is the reason why authentication and laying a foundation for the introduction of evidence are important.⁵⁹ (Emphasis supplied)

In *People v. Lorenzo*,⁶⁰ this Court held that for a successful prosecution for illegal sale and illegal possession of dangerous drugs, not only must their elements be proven, but the identity of the drug seized must also be established with moral certainty.⁶¹

Therefore, it is imperative that the arresting officers strictly observe the requirements under Section 21 of the Comprehensive Dangerous Drugs Act.

Here, Section 21(1)’s requirements were not followed.

First, the inventory was made neither at the target site of the buy-bust operation nor at the police station, but at the barangay hall. In *People v. De Leon*,⁶² this Court held that the barangay hall is not among the places provided by law where the inventory and photographing of the confiscated drugs may be done.⁶³

Second, the photographing and inventory were not simultaneously done, and only accused-appellants out of the required witnesses were present. The police officers took photographs of the accused and the seized items at the target site, but did not take photographs of the inventory conducted

⁵⁷ Id. at 475.

⁵⁸ *People v. Morales*, 630 Phil. 215, 229 (2010) [Per J. Del Castillo, Second Division].

⁵⁹ *People v. Belocura*, 693 Phil. 476, 495–496 (2012) [Per J. Bersamin, First Division] citing *People v. Pagaduan*, 641 Phil. 432 (2010) [Per J. Brion, Third Division].

⁶⁰ 633 Phil. 393 (2010) [Per J. Perez, Second Division].

⁶¹ Id. at 402–403.

⁶² G.R. No. 214472, November 28, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64849>> [Per J. Caguioa, Second Division].

⁶³ Id.

at the barangay hall. Additionally, the inventory was not done in the presence of the required third-party witnesses.

In the similar case of *People v. Alconde*,⁶⁴ the photographing of the seized items was done immediately after the arrest but only in the presence of the accused. This Court emphasized that, to remove any doubts on the integrity of the seized drug, the required witnesses under Section 21(1) must be present not only in the inventory, but also during the photographing of the seized items.⁶⁵

Worse, not only was the photographing conducted without the required witnesses under Section 21(1), but there are also doubts as to whether there was any photos taken at all. While PO1 Consulta testified that he took pictures of the accused and the seized items,⁶⁶ PO3 Amador admitted during cross-examination that the pictures were corrupted in his cellphone.⁶⁷ This implies that no photos were presented during trial.

The non-presentation of photos as evidence, coupled with the absence of the required witnesses during photographing, raises doubts as to whether the police officers took photographs at all. The importance of the taking of photographs was explained in *People v. Musor*.⁶⁸

To be sure, the taking of photographs of the seized drugs is not a menial requirement that can be easily dispensed with. Photographs provide credible proof of the state or condition of the illegal drugs and/or paraphernalia recovered from the place of apprehension to ensure that the identity and integrity of the recovered items are preserved.⁶⁹

Third, the required witnesses under Section 21(1) were not present during the marking of the items seized from accused-appellants. This goes against settled jurisprudence, which requires third-party witnesses to be present not only during the inventory, but even as early as the arrest. In *People v. Tomawis*,⁷⁰ there were no required witnesses during the buy-bust operation and the marking of the seized items; they were only called in during the inventory at the barangay hall. In acquitting the accused, this Court held:

⁶⁴ G.R. No. 238117, February 4, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64973>> [Per J. Perlas-Bernabe, Second Division].

⁶⁵ Id.

⁶⁶ CA *rollo*, p. 62.

⁶⁷ Id. at 61.

⁶⁸ G.R. No. 231843, November 7, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64866>> [Per J. Caguioa, Second Division].

⁶⁹ Id.

⁷⁰ G.R. No. 228890, April 18, 2018, <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64241> [Per J. Caguioa, Second Division].

The presence of the three witnesses must be secured not only during the inventory but more importantly at the time of the warrantless arrest. It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses would also controvert the usual defense of frame-up as the witnesses would be able to testify that the buy-bust operation and inventory of the seized drugs were done in their presence in accordance with Section 21 of RA 9165.

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so - and "calling them in" to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished - does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.⁷¹ (Emphasis supplied)

Similarly, in *People v. Que*:⁷²

The presence of third-party witnesses is imperative, not only during the physical inventory and taking of pictures, but also during the actual seizure of items. The requirement of conducting the inventory and taking of photographs "immediately after seizure and confiscation" necessarily means that the required witnesses must also be present during the seizure or confiscation.⁷³ (Emphasis supplied, citation omitted)

Fourth, the inconsistencies in the testimonies of the prosecution's witnesses only cast more doubts on the presence of all the required witnesses. PO3 Amador testified that the inventory was witnessed by Cruz, the barangay official, and de Leon, the media representative.⁷⁴ On the other hand, PO1 Consulta admitted on cross-examination that when they conducted the inventory, only the barangay official was present, as the media and Department of Justice representatives were unavailable.⁷⁵ Such conflict in these testimonies is material, for if it were true that only the barangay official was present during the inventory, then there is a grave violation of Section 21(1)'s requirements.

All of these deficiencies, taken together, constitute substantial noncompliance with the requirements of Section 21 and creates doubts as to the identity of the drugs seized.

⁷¹ Id.

⁷² G.R. No. 212994, January 31, 2018, 853 SCRA 487 [Per J. Leonen, Third Division].

⁷³ Id. at 520-521.

⁷⁴ CA rollo, pp. 60-61.

⁷⁵ Id. at 65.

Granted, Republic Act No. 10640 provides a saving clause: the arresting officers' noncompliance will not render the seizure and custody of the items void and invalid as long as there are justifiable grounds and the integrity and evidentiary value of the seized items are properly preserved. However, this Court explained in *People v. Miranda*⁷⁶ that the proviso applies only when the prosecution puts forth—and proves as fact—the justifiable ground for noncompliance.⁷⁷

In this case, the police officers did not provide any justifiable ground for their noncompliance of Section 21(1)'s requirements.

The police officers did not explain why the inventory was not done either at the target site, where they could have taken photos of the accused and the seized items immediately after marking, or at the police station, where the police brought the accused and the seized items immediately after the inventory. Notably, the buy-bust operation was conducted in a private resort and accused-appellant De Rama was arrested in one (1) of the rooms in the resort.⁷⁸ The apprehending officers did not mention other people at the resort during the operation, so there could not have been any commotion that could have prevented the proper inventory of the seized items.

The police officers also did not explain why the photographing was not done simultaneously with the inventory. If the police officers were able to take pictures of the seized items at the target site, then there is no reason why they could not do the same during the inventory at the barangay hall.

Lastly, the police officers did not clarify why the required witnesses, if all of them were really present during the inventory at the barangay hall, were not present during the buy-bust operation. This was a carefully planned and coordinated buy-bust operation; there was ample time for the police officers to prepare for it. They should have been able to secure the required witnesses beforehand and instruct them to observe the operation and marking of the seized items at the target site.

Without any explanation for such noncompliance with Section 21's requirements, this Court is left with nothing to establish whether the identity of the seized drugs was preserved by the police officers.

For failure to comply with Section 21's requirements and to provide a justifiable ground for this noncompliance, the identity of the *corpus delicti* in the illegal sale and possession of dangerous drugs was not established.

⁷⁶ G.R. No. 229671, January 31, 2018, 854 SCRA 42 [Per J. Perlas-Bernabe, Second Division].

⁷⁷ Id.

⁷⁸ CA *rollo*, pp. 63–64.

The prosecution was, therefore, not able to prove the guilt of accused-appellants beyond reasonable doubt. Acquittal must ensue.

WHEREFORE, the Court of Appeals' April 20, 2018 Decision in CA-G.R. CR-HC No. 08625 is **REVERSED** and **SET ASIDE**. Accused-appellants Rommel Camasin y Parado and Melody De Rama y Tenorio are **ACQUITTED** for the prosecution's failure to prove their guilt beyond reasonable doubt. They are ordered immediately **RELEASED** from detention unless they are confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Superintendents of the New Bilibid Prison, Bureau of Corrections, Muntinlupa City, and Correctional Institution for Women, Mandaluyong City for immediate implementation. The Superintendents are directed to report the action he or she has taken to this Court within five (5) days from receipt of this Resolution.

The Regional Trial Court is directed to turn over the seized sachets of shabu and marijuana to the Dangerous Drugs Board for destruction in accordance with law.

SO ORDERED." (Inting, J., on leave.)

Very truly yours,

Mis. DC Bath
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court

*grm
10/11/19*

Atty. Shirley Ann Albiad
Special & Appealed Cases Service
PUBLIC ATTORNEY'S OFFICE
DOJ Agencies Building
East Avenue cor. NIA Road
1104 Diliman, Quezon City

COURT OF APPEALS
CA G.R. CR HC No. 08625
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
1229 Legaspi Village, Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 34, Calamba City
(Crim. Case Nos. 25100-2015-C;
25101-2015-C; 25104-2015-C)

The Director
Bureau of Corrections
1770 Muntinlupa City

CSSupt. Arturo Sabadisto
Superintendent
New Bilibid Prison East
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Superintendent
CORRECTIONAL INSTITUTION FOR
WOMEN
1550 Mandaluyong City

Mr. Rommel P. Camasin
c/o The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Ms. Melody T. De Rama
c/o The Superintendent
CORRECTIONAL INSTITUTION FOR
WOMEN
550 Mandaluyong City

DANGEROUS DRUG BOARD
3rd Floor DDB-PDEA Bldg.,
NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

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