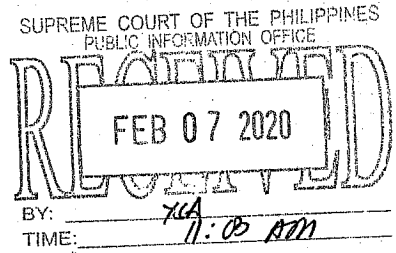




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 29, 2020** which reads as follows:*

“G.R. No. 226186 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus ARIEL PALACOL y CEZARIO, accused-appellant.

After a careful review of the records of the instant case, the Court reverses and sets aside the Decision¹ dated August 26, 2015 (assailed Decision) of the Court of Appeals, Fourth Division (CA) in CA-G.R. CR-HC No. 05897, which affirmed the Judgment² dated October 25, 2012 rendered by the Regional Trial Court of Santa Cruz, Laguna, Branch 28 (RTC) in Criminal Case No. SC-11857, entitled *People of the Philippines v. Ariel Palacol y Cezario*, finding accused-appellant Ariel Palacol y Cezario (accused-appellant Palacol) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” as amended.

The Court acquits accused-appellant Palacol 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 provides that: (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 Department of Justice**

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¹ Rollo, pp. 2-16. Penned by Associate Justice Francisco P. Acosta, concurred in by Associate Justices Noel G. Tijam (now a Retired Member of this Court) and Eduardo B. Peralta, Jr.

² CA rollo, pp. 72-78. Penned by Presiding Judge Iluminado M. Dela Peña.

(DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy thereof.

A perusal of both the recital of facts in the assailed Decision and the oral testimonies of the prosecution's witnesses, *i.e.*, SPO1 Abalos and PO3 Valdez, readily reveals that the prosecution *failed to prove* that there was a representative from the media, a representative from the DOJ, and an elected public official who witnessed the inventory of the alleged seized drug specimen.

Despite the prosecution's failure to allege compliance of the rule on the mandatory witnesses as required under Section 21 of R.A. 9165, in the assailed Decision, the CA disregarded this crucial omission, holding that "the Prosecution presented a Certificate of Inventory which evidently disclosed that the inventory conducted was indeed witnessed by a representative from the media and by an elected official."³

The CA's appreciation of the aforementioned Certificate of Inventory is erroneous.

A perusal of the prosecution's Formal Offer of Evidence⁴ reveals that the Certificate of Inventory was not formally offered by the prosecution. It is axiomatic that courts cannot consider evidence that has not been formally offered.⁵ Hence, as the Certificate of Inventory is excluded from appreciation because of the prosecution's failure to formally offer it, there is absolutely no basis to believe that the rule on the mandatory witnesses was complied with. Moreover, because of its non-inclusion in the prosecution's Formal Offer of Evidence, for all intents and purposes, there was no Certificate of Inventory that was executed by the authorities in relation to the instant case.

Assuming *arguendo* that the Court can take cognizance of the Certificate of Inventory despite its non-inclusion in the prosecution's Formal Offer of Evidence, the CA is still incorrect in holding that the said document proves that the mandatory requirements under Section 21 of R.A. 9165 were fulfilled.

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³ *Rollo*, pp. 12-13.

⁴ *Records*, pp. 96-97.

⁵ RULES ON EVIDENCE, Rule 132, Sec. 34.

As seen in the Certificate of Inventory,⁶ and as noted by the CA itself in the assailed Decision,⁷ a representative from the DOJ did not sign the document. Moreover, neither accused-appellant Palacol nor his representative signed the document. The evidence on record is completely silent as to why the aforementioned signatures are not found on the Certificate of Inventory. Hence, it is inevitable for the Court to conclude that, at the very least, there was no representative from the DOJ who witnessed the inventory, and that accused-appellant Palacol was not given a copy of the document and was not asked to sign the same in blatant violation of Section 21 of R.A. 9165.

The Court has held that the presence of the witnesses from the DOJ, media, and from public elective office is *necessary* to protect against the possibility of planting, contamination, or loss of the seized drug.⁸ Using the language of the Court in *People v. Mendoza*,⁹ 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, thereby negating the integrity and credibility of the seizure and confiscation of the subject illegal drug that was evidence of the *corpus delicti*, and adversely affecting the trustworthiness of the incrimination of the accused.¹⁰

Concededly, however, there are instances wherein departure from the aforesaid mandatory procedures is permissible. Section 21 of the Implementing Rules and Regulations of R.A. 9165 provides 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.”

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.¹¹

Applying the foregoing in the instant case, it must be stressed that the prosecution failed to recognize the authorities’ failure to

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⁶ Records, p. 18.

⁷ *Rollo*, p. 13.

⁸ *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131, 149.

⁹ 736 Phil. 749 (2014).

¹⁰ *Id.* at 764.

¹¹ See *People v. Alagarme*, 754 Phil. 449, 461 (2015).

observe the mandatory requisites under Section 21 of R.A. 9165. Moreover, the prosecution failed to make any justification for such failure.

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* would have been compromised.¹²

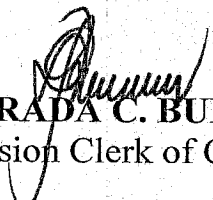
In light of the foregoing, the Court restores the liberty of accused-appellant Palacol.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated August 26, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 05897 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Ariel Palacol y Cezario is **ACQUITTED** of the crime 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 has taken.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *als*

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¹² See *People v. Sumili*, 753 Phil. 342, 349-350 (2015).

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 05897)

The Hon. Presiding Judge
Regional Trial Court, Branch 28
Santa Cruz, 4009 Laguna
(Crim. Case No. SC-11857)

PUBLIC ATTORNEY'S OFFICE
Special and Appealed Cases Service
Counsel for Accused-Appellant
DOJ Agencies Building
Diliman, 1101 Quezon City

Mr. Ariel C. Palacol (x)
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General (x)
Bureau of Corrections
1770 Muntinlupa City

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