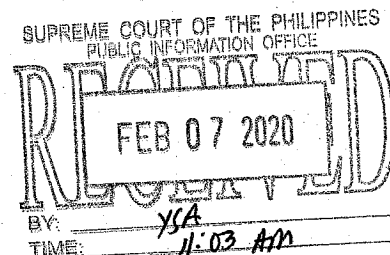




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **January 8, 2020** which reads as follows:

“G.R. No. 229096 - PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus GIOVANNI ADZUARA y RAGUAL, accused-appellant.

After a careful review of the records of the instant case, the Court reverses and sets aside the Decision¹ dated March 31, 2016 (assailed Decision) of the Court of Appeals, Tenth Division (CA) in CA-G.R. CR-HC No. 06432, which affirmed the Decision² dated September 23, 2013 rendered by the Regional Trial Court of Bambang, Nueva Ecija, Branch 37 (RTC) in Criminal Case No. 3202, entitled *People of the Philippines v. Giovanni Adzuara y Ragual*, finding accused-appellant Giovanni Adzuara y Ragual (accused-appellant Adzuara) 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 Adzuara 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 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 (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy thereof.**

- over – four (4) pages ...

168

¹ Rollo, pp. 2-17. Penned by Associate Justice Zenaida T. Galapate-Laguilles, concurred in by Associate Justices Mariflor P. Punzalan Castillo and Florito S. Macalino.

² CA rollo, pp. 85-93. Penned by Presiding Judge Jose Godofredo M. Naui.

In the instant case, it is not denied that the marking and inventory of the seized items were conducted in the presence of a barangay official, i.e., Barangay Chairman Francisco Saduete (Saduete). The prosecution readily admitted that “that there were **no representatives from the Department of Justice and the media.**”³ Hence, the inventory receipt was only signed by Saduete and accused-appellant Adzuara.

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.⁴ Using the language of the Court in *People v. Mendoza*,⁵ 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.⁶

Concededly, however, there are instances wherein departure from the aforesaid mandatory procedures are 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: (1) recognize any lapse on the part of the police officers and (2) be able to justify the same.⁷

Applying the foregoing in the instant case, it must be stressed that the prosecution failed to recognize the authorities’ failure to obtain the mandatory witnesses during the marking and inventory of the seized specimen. Moreover, the prosecution failed to make any justification for the non-observance of the law.

- over -

168

³ *Rollo*, p. 9. Emphasis supplied.

⁴ *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131, 149.

⁵ 736 Phil. 749 (2014).

⁶ *Id.* at 764.

⁷ See *People v. Alagarme*, 754 Phil. 449, 461 (2015).

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.⁸

Moreover, accused-appellant Adzuara's defense that he was a victim of a police frame-up was duly corroborated by an eyewitness, Barangay Kagawad George Felipe Atabay (Atabay), who personally saw the incident and substantiated accused-appellant Adzuara's assertion that the authorities forcefully stormed the vehicle occupied by the latter. Atabay testified that:

x x x he was a barangay kagawad whose house was just across the highway where the incident happened. He noticed a *Starex* parked at the other side of the highway. There was a motorcycle behind it. Suddenly, another vehicle stopped in front of the *Starex*. Men came out of the vehicle and poked guns at the man inside the van. After they forced the door of the van open, they dragged the man out and handcuffed him. x x x⁹

Hence, the Court finds that the CA was in error in finding that the alleged buy-bust operation was proven beyond reasonable doubt.

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

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated March 31, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06432 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Giovanni Adzuara y Ragual 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 Director of the Bureau of Corrections, 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.

- over -

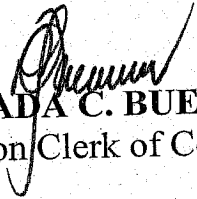


168

⁸ See *People v. Sumili*, 753 Phil. 342, 349-350 (2015).

⁹ *Rollo*, p. 6.

SO ORDERED.” Lopez, J., on official leave.

Very truly yours,


LIBRADA C. BUENA 
Division Clerk of Court 
168

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

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 06432)

The Hon. Presiding Judge
Regional Trial Court, Branch 37
Bambang, 3702 Nueva Vizcaya
(Crim. Case No. 3202)

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

Mr. Giovanni R. Adzua (x)
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

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

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Judgment Division (x)
Supreme Court



UR

