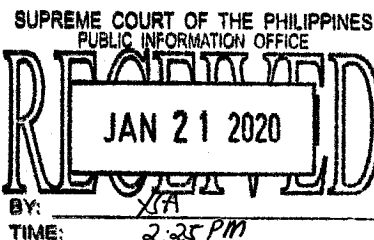




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila
SECOND DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Special Second Division, issued a Resolution dated 08 January 2020 which reads as follows:

“G.R. No. 232307 (*People of the Philippines vs. Rufino Mina, Jr. y Valdez*).— This is an appeal¹ seeking to reverse and set aside the Decision² dated July 11, 2016 of the Court of Appeals (CA) in CA-G.R. CR HC No. 07088 which affirmed the Decision³ dated September 11, 2014 of Branch 64, Regional Trial Court (RTC) Tarlac City, in Criminal Case No. 15842 finding accused-appellant Rufino Mina, Jr. y Valdez guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Facts

This case stemmed from an Information⁴ filed before the RTC charging accused-appellant with the offense of Illegal Sale of Dangerous Drugs defined and penalized under Section 5, Article II of RA 9165.

The prosecution alleged that at 12:30 a.m. of August 19, 2008, the Drug Enforcement Unit of Victoria Police Station implemented a buy-bust operation against the accused-appellant. The police asset told accused-appellant that he will buy ₱300 worth of *marijuana*, accused-appellant went inside his house to get the *marijuana*. After three minutes, accused-appellant returned and handed to Police Officer II Francis C. Novesteras (PO2 Novesteras) eleven (11) plastic sachets of dried *marijuana* leaves. Immediately thereafter, the rest of the buy-bust team swooped in at the crime scene and arrested the accused-appellant. Upon arrival at the police station, the police officers frisked accused-appellant and recovered the buy-bust money from his left pocket. PO2

¹ *Rollo*, pp. 13-15.

² *Id.* at pp. 2-12, penned by Justice Rosmari D. Carandang (now member of the Court), with Justice Mario V. Lopez (now a member of the Court) and Justice Myra V. Garcia-Fernandez, concurring.

³ *CA rollo*, pp. 54-64, penned by Judge Lily C. De Vera-Vallo.

⁴ Records p. 1.

Novesteras handed the seized items to the investigator Senior Police Officer 4 Jessie Apolonio (SPO4 Apolonio), who prepared the Request for Laboratory Examination. After marking the items, taking of photographs, and weighing of the eleven (11) plastic sachets which totaled 11.868 grams, the items were turned over by PO2 Novesteras and SPO4 Apolonio to the crime laboratory. After a qualitative examination, the contents of the seized plastic sachets with a total weight of 11.868 grams tested positive for *marijuana*.

In his defense, the accused-appellant denied the charge against him and asserted that at around 12:00 midnight of August 19, 2008, he was awakened by his mother to buy medicine for her stomach ache. When he went outside of his house, three policemen suddenly held him, pushed him inside their vehicle, and brought him to the police station. There, accused-appellant found out that he was being accused of illegal sale of *marijuana*.

Ruling of the RTC

In the Decision⁵ dated September 11, 2014, the RTC found accused-appellant guilty beyond reasonable doubt of the offense charged and accordingly sentenced him to suffer the penalty of life imprisonment with a fine of ₱500,000. It ruled that the prosecution was able to establish the identity and evidentiary value of the *corpus delicti* from the time it was seized from the accused-appellant, to its delivery to the laboratory for examination, until its presentation in court as part of the evidence for the prosecution. Aggrieved, accused-appellant appealed to the CA.

Ruling of the CA

In the Decision⁶ dated July 11, 2016, the CA affirmed accused-appellant's conviction. It upheld the validity of accused-appellant's arrest and seizure of the *marijuana* despite the police officers' failure to conduct the requisite inventory, not to mention their failure to secure the presence of a representative from the Department of Justice, the media, and an elected public official.

⁵ CA rollo, pp. 54-64.

⁶ Rollo, pp. 2-12.

Ruling of this Court

The appeal is with merit.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165,⁷ it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.⁸ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt, and hence, warrants an acquittal.⁹

To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.¹⁰ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that “[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.”¹¹ Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending

⁷ The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of Republic Act No. (RA) 9165 are: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment; while the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (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. See *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 v. Manansala*, G.R. 229092, February 21, 2018, 856 SCRA 359, 364; *People v. Miranda*, G.R. 229671, January 31, 2018, 854 SCRA 42, 52; *People v. Mamangon*, G.R. 229102, January 29, 2018, 853 SCRA 303; all cases citing *People v. Sumili*, 753 Phil. 342, 348 (2015); and *People v. Bio*, 753 Phil. 730, 736 (2015).

⁸ See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.*; *People v. Manansala*, *id.* at 370; *People v. Miranda*, *id.*; and *People v. Mamangon*, *id.* at 313. See also *People v. Viterbo*, *et al.*, 739 Phil. 593, 601 (2014).

⁹ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, 867 SCRA 548, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

¹⁰ See *People v. Año*, G.R. No. 230070, March 14, 2018, 859 SCRA 380, 388.

¹¹ *People v. Mamalumpon*, 767 Phil. 845, 854-855 (2015), citing *Imson v. People*, 669 Phil. 262, 271 (2011). See also *People v. Ocfemia*, 718 Phil. 330, 348 (2013), citing *People v. Resurreccion*, 618 Phil. 520, 532 (2009).

team is sufficient compliance with the rules on chain of custody.¹²

The law further requires that the inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640,¹³ a representative from the media and the Department of Justice, and any elected public official;¹⁴ or (b) if after the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service OR the media.¹⁵ The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”¹⁶

“As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded not merely as a procedural technicality but as a matter of substantive law. This is because [t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.”¹⁷

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.¹⁸ As such, the failure of the apprehending team to strictly comply with it would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.¹⁹ The foregoing is based on the saving clause found in Section 21 (a),²⁰ Article II of the Implementing Rules

¹² *People v. Tumalak*, 791 Phil. 148, 160-161 (2016); and *People v. Rollo*, 757 Phil. 346, 357 (2015).

¹³ “An Act to Further Strengthen the Anti-Drug Campaign of the Government Amending for the Purpose Section 21 of Republic Act No. 9165, Otherwise known as the ‘Comprehensive Dangerous Drugs Act of 2002,’” approved on July 15, 2014.

¹⁴ Section 21 (1) and (2), Article II of RA 9165 and its Implementing Rules and Regulations.

¹⁵ Section 21, Article II of RA 9165, as amended by RA 10640.

¹⁶ See *People v. Mendoza*, 736 Phil. 749, 764 (2014).

¹⁷ See *People v. Bangalan*, G.R. No. 232249, September 3, 2018, citations omitted.

¹⁸ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

¹⁹ See *People v. Almorfe, et al.*, 631 Phil. 51, 60 (2010).

²⁰ Section 21 (a), Article II of the IRR of RA 9165 pertinently states: “Provided, further, that non-compliance with 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 of and custody over said items[.]”

and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.²¹ It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,²² and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.²³

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.²⁴ Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.²⁵ 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 fully well that they would have to strictly comply with the chain of custody rule.²⁶

Notably, the Court, in *People v. Miranda*,²⁷ issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that “[since] the [procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence’s integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.”²⁸

²¹ Section 1 of RA 10640 pertinently states: “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.”

²² *People v. Almorfe*, *supra* note 19.

²³ See *People v. De Guzman y Danzil*, 630 Phil. 637, 649 (2010).

²⁴ See *People v. Manansala*, *supra* note 7 at 375.

²⁵ See *People v. Gamboa*, *supra* note 9, citing *People v. Umipang*, *supra* note 9, at 1053.

²⁶ See *People v. Crispo*, *supra* note 7 at 376-377.

²⁷ *Supra* note 7 at 42.

²⁸ See *Id.* at 61.

In this case, no inventory of the allegedly seized *marijuana* was made. It also appears that the arresting officers failed to comply with the photography requirement of Section 21, Article II of RA 9165. Notably, the alleged buy-bust operation was implemented at 12:30 a.m. Under the law, the taking of the photo of the seized illegal items must be done immediately after its seizure. Had the arresting officers complied with Section 21, the photo²⁹ would not have been taken in broad daylight. But, even assuming that an inventory and proper photography were made by the arresting officers, the conduct thereof was not done in the presence of a representative from the Department of Justice, the media, and any elected public official. The record is bereft of anything to show that the buy-bust team secured the presence of these witnesses during the procedure. Although it was incumbent upon the prosecution to account for any deviation from Section 21, Article II of RA 9165, the prosecution did not present any justifiable reason for their lapses. Neither did they show that genuine and sufficient efforts were exerted by the apprehending officers in securing the presence of the required witnesses.

In view of the foregoing, the Court is constrained to conclude that the integrity and evidentiary value of the items purportedly seized from accused-appellant were compromised, thereby necessitating his acquittal from the crime charged.

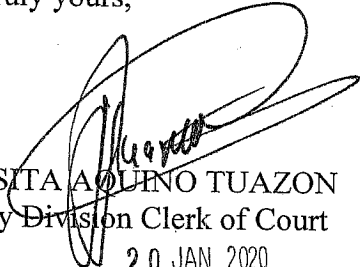
WHEREFORE, the appeal is **GRANTED** and the assailed July 11, 2016 Decision of the Court of Appeals in CA-G.R. CR HC No. 07088 is **REVERSED** and **SET ASIDE**. Accused-appellant Rufino Mina, Jr. y Valdez is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt in Criminal Case No. 15842. Accused-appellant Rufino Mina, Jr. y Valdez is **ORDERED** immediately **RELEASED** from detention, unless he is detained for any other lawful cause.

Let a copy of this Resolution be furnished the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation, who is **ORDERED** to **REPORT** to this Court the action he has taken within five (5) days from receipt of this Resolution.

²⁹ Records, p. 79.

SO ORDERED." (Bernabe, *J.*, on official leave, Reyes, A., Jr., *J.*, on official business; Hernando, *J.*, designated Acting Chairperson per Special Order No. 2757 dated January 6, 2020).

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

20 JAN 2020

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HON. PRESIDING JUDGE (reg)
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Tarlac City
(Crim. Case No. 15842)

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