



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 243390
PHILIPPINES,

Plaintiff-Appellee,

Present:

PERLAS-BERNABE, J.,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
BALTAZAR-PADILLA, *JJ.

- versus -

ALEX BALUYOT y BIRANDA,
Accused-Appellant.

Promulgated:

05 OCT 2020

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DECISION

HERNANDO, J.:

On appeal is the October 5, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07736, which denied accused-appellant Alex Baluyot y Biranda's (Alex) appeal from the August 27, 2015 Consolidated Decision² of the Regional Trial Court, Branch 127, Caloocan City (RTC). The Consolidated Decision of the trial court found Alex guilty in Criminal Case No. 89534 for violation of Section 5, Article II of Republic Act No. (RA) 9165³ or the Comprehensive Dangerous Drugs Act of 2002.

The Antecedents

The facts, as alleged by the prosecution, are as follows:

* On leave.

¹ CA rollo, pp. 143-154. Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Associate Justices Jose C. Reyes, Jr. (now retired Member of this Court) and Renato C. Francisco.

² Records, pp. 161-182. Penned by Judge Victoriano B. Cabanos.

³ An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise Known as the Dangerous Drugs Act of 1972, as Amended, Providing Funds Therefor, and for Other Purposes.

On March 5, 2013, a confidential informant (**CI**) of the Philippine Drug Enforcement Agency (**PDEA**) informed the team of Intelligence Officer 1 Froilan Bitong (**IO1 Bitong**) about the drug activity of a certain Alex in Caloocan City.⁴ IO1 Bitong's team is based in Camp Olivas, Pampanga. The team was able to procure the necessary authority⁵ in order to conduct a buy-bust operation outside of its jurisdiction. Intelligence Officer 1 Ronnel Molina (**IO1 Molina**) was assigned as the poseur-buyer for the operation while Intelligence Officer 1 Regie Pinto (**IO1 Pinto**) was designated as the arresting officer.⁶ There were three to four other members of the team.⁷ Two five-hundred peso (₱500.00) bills were given to IO1 Molina to serve as buy-bust money.⁸ He then placed his initials, "REM," on the left portion of the bills.⁹ The team agreed that after the sale, IO1 Molina will ring up the cellphone of IO1 Pinto to signal that the latter may proceed to make the arrest.¹⁰

The CI then called Alex to inform him that IO1 Molina is a possible buyer of *shabu*.¹¹ The cellphone was passed to IO1 Molina and he asked if Alex had one thousand pesos worth of *shabu* on hand.¹² Alex answered in the affirmative.¹³ Hence, the team proceeded to the target area in Caloocan City.

At around 9:00 p.m. of the same day, IO1 Molina and the CI walked to the house of Alex while the other team members proceeded to their positions.¹⁴ The CI introduced IO1 Molina to Alex as the buyer.¹⁵ Alex showed them only one plastic sachet of *shabu* and said that he only has five hundred pesos (₱500.00) worth of *shabu*.¹⁶ IO1 Molina said that one plastic sachet is enough.¹⁷ The sale took place. Alex handed the sachet to IO1 Molina.¹⁸ In turn, IO1 Molina gave the marked five-hundred peso bill to Alex as payment.¹⁹ Shortly thereafter, IO1 Molina called up the cellphone of IO1 Pinto, giving the signal for the arrest to proceed.²⁰

⁴ TSN, September 20, 2013, pp. 5-7.

⁵ Authority to Operate Outside Jurisdiction dated March 4, 2013, Certificate of Coordination dated March 5, 2013, Authority to Operate Outside Own Jurisdiction dated March 5, 2013, Authority to Operate dated March 5, 2013, and Pre-Operation Report dated March 5, 2013, as Exhibits "S" to "W," folder of exhibits, pp. 18-22.

⁶ TSN, September 20, 2013, pp. 10-12.

⁷ Id.

⁸ Id. at 12-13; TSN, September 11, 2014, pp. 11-12.

⁹ Id.

¹⁰ TSN, September 20, 2013, p. 15.

¹¹ Id. at 15-19.

¹² Id.

¹³ Id.

¹⁴ Id. at 22-24.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 24-25.

¹⁹ Id.

²⁰ Id. at 24-26; TSN, September 11, 2014, pp. 8-10.

IO1 Pinto and the other team members rushed to the scene and arrested Alex.²¹ IO1 Pinto recovered the marked five-hundred peso (₱500.00) bill from Alex and handed it to IO1 Molina.²² Another medium-sized plastic sachet containing two smaller plastic sachets of *shabu* was recovered from Alex's black sling bag.²³ However, IO1 Pinto stated in his testimony that he was not able to see the contents of the black sling bag at the time of the operation until IO1 Molina subsequently opened it.²⁴ IO1 Molina marked the plastic sachet subject of the illegal sale as "EXH A REM 3/5/2013," and the medium plastic sachet as "EXH B-2a REM 3/5/2013" when they were already in the PDEA National Headquarters in Quezon City, as they opted to leave the site because of the possible danger.²⁵ He did not mark the two smaller plastic sachets inside the medium plastic sachet.²⁶ He then executed an inventory receipt.²⁷ He also prepared the requests for laboratory examination of the seized items and drug test on Alex, which were signed by IO1 Bitong.²⁸ Chemist Elaine Erno (**Chemist Erno**) received the requests for laboratory examination and drug test, and the specimen of two plastic sachets.²⁹

Chemist Erno found that the specimens in the plastic sachets given to her are positive for the presence of methamphetamine hydrochloride.³⁰ Also, the drug test that she conducted on Alex also yielded positive results as to the use of dangerous drugs.³¹

On March 7, 2013, an Information³² was filed against Alex for violation of Section 5, Article II of RA 9165 or Illegal Sale of Dangerous Drugs in the RTC of Caloocan City. It alleges:

That on or about the 5th day of March, 2013 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously sell and deliver to IO1 RONNEL E. MOLINA, who posed as buyer, One (1) small heat-sealed transparent plastic sachet with markings "EXH A REM 03/5/2013" containing METHAMPHETAMINE HYDROCHLORIDE (*Shabu*) weighing 0.0372 gram which when subjected for laboratory examination gave POSITIVE result to the tests for Methamphetamine Hydrochloride, a dangerous drug, and knowing the same to be such.

²¹ TSN, September 20, 2013, p. 26; TSN, September 11, 2014, p. 10.

²² TSN, September 11, 2014, pp. 11-12.

²³ TSN, September 20, 2013, p. 26.

²⁴ TSN, September 11, 2014, p. 13.

²⁵ TSN, September 20, 2013, pp. 31-33, 38-39.

²⁶ *Id.* at 48.

²⁷ *Id.* at 47; Inventory Receipt March 5 2013 as Exhibit "L," folder of exhibits, p. 7.

²⁸ Request for Drug Test dated March 6, 2013, and Request for Physical/Medical Examination dated March 6, 2013, as Exhibits "H" and "J," folder of exhibits, pp. 3, 5.

²⁹ TSN, August 1, 2013, p. 6.

³⁰ Chemistry Report No. PDEA-DD013-061 dated March 6, 2013 as Exhibit "B," folder of exhibits, p. 2.

³¹ Chemistry Report No. PDEA-DT013-085 dated March 6, 2013 as Exhibit "I," folder of exhibits, p. 4.

³² Records, p. 2; docketed as Criminal Case no. 89534.

Contrary to Law.³³

On the same date, a second Information³⁴ was filed against Alex for violation of Section 11, Article II of RA 9165 or Illegal Possession of Dangerous Drugs under Criminal Case No. 89535 in the same RTC. It alleges:

That on or about the 5th day of March, 2013 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there wilfully, unlawfully and feloniously have in his possession, custody and control Two (2) heat-sealed transparent plastic sachets each containing METHAMPHETAMINE HYDROCHLORIDE (Shabu) weighing 4.6000 grams & 3.3021 grams, which when subjected for laboratory examination gave POSITIVE result to the tests for Methamphetamine Hydrochloride, a dangerous drug, in gross violation of the above-cited law.

Contrary to Law.³⁵

On April 5, 2013, Alex was arraigned and he pleaded not guilty to both charges.³⁶ On August 1, 2013, pre-trial was held.³⁷ Trial followed.

Alex presented the defense of denial. He testified that at around 8:30 p.m. of March 5, 2013, he was alone in his house in Bagong Silang, Caloocan City waiting for his two children to come home.³⁸ Then, six PDEA officers came to his house to arrest him.³⁹ They made Alex lie on the ground and then poked a gun at him.⁴⁰ The PDEA officers asked him to identify himself and he said that his name is Alex Baluyot.⁴¹ They then brought him to the PDEA Office in Quezon City where he was subjected to a drug test and interrogation.⁴² The PDEA officers also showed him a plastic sachet allegedly containing the subject dangerous drug.⁴³ Alex denied that he sold *shabu* to IO1 Molina.⁴⁴ He claimed that the law enforcers lied on the witness stand about having bought illegal drugs from him.⁴⁵ Despite this, Alex did not file charges against them because he did not have the means to do so.⁴⁶

Ruling of the Regional Trial Court

On August 27, 2015 the RTC rendered its Decision on the case.

³³ Id.

³⁴ Id. at 30; docketed as Criminal Case No. 89535.

³⁵ Id.

³⁶ Certificate of Arraignment, and Order, both dated April 5, 2013.

³⁷ Pre-Trial Order dated August 1, 2013.

³⁸ TSN, December 5, 2014, p. 3.

³⁹ Id. at 4.

⁴⁰ Id.

⁴¹ Id. at 4-5.

⁴² Id. at 5.

⁴³ Id.

⁴⁴ Id. at 5-6.

⁴⁵ Id. at 8.

⁴⁶ Id.

In Criminal Case No. 89534, the RTC found Alex guilty of violation of Section 5, Article II of RA 9165 or Illegal Sale of Dangerous Drugs. He was sentenced to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00. The trial court ruled that the prosecution was able to establish beyond reasonable doubt the elements of Illegal Sale of Dangerous Drugs.⁴⁷

On the other hand, in Criminal Case No. 89535, the RTC found Alex not guilty of violation of Section 11, Article II of RA 9165 or Illegal Possession of Dangerous Drugs. The trial court ruled that the prosecution failed to establish with certainty the identity of the subject specimens.⁴⁸

The dispositive portion of the Consolidated Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

In **Criminal Case No. 89534**, the Court finds Accused ALEX BALUYOT y BIRANDA guilty of the offense of [v]iolation of Section 5, Article II, RA 9165, and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay the Fine of Five Hundred Thousand Pesos (Php500,000.00).

In **Criminal Case No. 89535**, the Court finds Accused ALEX BALUYOT y BIRANDA not guilty of the offense of [v]iolation of Section 11, Article II, RA 9165 for failure of the prosecution to prove his guilt beyond reasonable doubt of the said offense.

The Jail Warden of Caloocan City is hereby directed to transfer the custody of the said accused to National Bilibid Prison, Bureau of Corrections, Muntinlupa City, for the service of his sentence in Criminal Case No. 89534, and for said Jail Warden to forthwith submit a written report of his compliance, or reason for non-compliance herewith.

The drugs subject matter of these cases are hereby ordered confiscated in favor of the government. In this regard, the Branch Clerk of Court of this Sala is hereby directed to turn over said specimen to the Philippine Drug Enforcement Agency (PDEA) for their immediate destruction in accordance with law.

SO ORDERED.⁴⁹

Alex elevated his case to the CA by filing a notice of appeal⁵⁰ in Criminal Case No. 89534 before the RTC.

⁴⁷ *Records*, pp. 161-182.

⁴⁸ *Id.*

⁴⁹ *Id.* at 181-182.

⁵⁰ *Id.* at 186; Notice of Appeal dated September 4, 2015.

Ruling of the Court of Appeals

On October 5, 2017, the CA rendered its assailed Decision denying the appeal and modifying the RTC ruling in Criminal Case No. 89534 to the extent that Alex shall be ineligible for parole.⁵¹

The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the appeal is **DENIED**. The assailed *Consolidated Decision* dated August 27, 2015 of the Regional Trial Court, Branch 127, Caloocan City, in Criminal Case No. 89534, is **MODIFIED** in that appellant Alex Baluyot y Biranda shall be **INELIGIBLE** for parole. Except as modified herein, the *Consolidated Decision* in Criminal Case No. 89534, **STANDS**.

SO ORDERED.⁵²

Aggrieved, Alex elevated his case before this Court.⁵³ The parties opted not to file supplemental briefs with this Court and instead adopted their discussions in their briefs filed with the CA.⁵⁴

Alex contends that: (1) the identity of the allegedly seized plastic sachets of *shabu* was not established because the chain of custody rule was not followed by the PDEA officers when the subject drugs were not immediately marked after seizure, and there were only two witnesses during the marking; (2) the RTC (and the CA) erred in giving credence to the inconsistent testimonies of the PDEA officers; and (3) the RTC (and the CA) erred in not giving credence to Alex's denial.⁵⁵

Conversely, the People, through the Office of the Solicitor General, maintains that: (1) the prosecution had sufficiently preserved the integrity of the seized illegal drugs and the chain of custody thereof; (2) the RTC (and the CA) correctly gave full faith and credence to the testimonies of the prosecution witnesses; (3) the elements of the crime charged were sufficiently established by the prosecution; and (4) the RTC (and the CA) correctly disregarded Alex's unsupported and self-serving defense of denial.⁵⁶

Issue

Whether or not Alex is guilty of Illegal Sale of Dangerous Drugs.

⁵¹ CA *rollo*, pp. 143-154.

⁵² Id. at 153.

⁵³ Id. at 176-179; Notice of Appeal dated October 26, 2017.

⁵⁴ *Rollo*, pp. 24-33; Manifestation of Plaintiff-Appellee dated May 27, 2019 and Manifestation of Accused-Appellant dated May 30, 2019.

⁵⁵ CA *rollo*, pp. 57-76; Brief for the Accused-Appellant dated March 29, 2016.

⁵⁶ Id. at 118-134; Brief for the Appellee dated July 29, 2016.

The Court's Ruling

There is merit in the appeal.

Alex was charged with and convicted of violation of Section 5, Article II of RA 9165, which reads:

Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

To successfully prosecute the offense of Sale of Illegal Drugs under Section 5, Article II of RA 9165, the following elements must be present: (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and the payment therefor.⁵⁷ In a buy-bust operation, the receipt by the poseur-buyer of the dangerous drug and the corresponding receipt by the seller of the marked money consummate the illegal sale of dangerous drugs.⁵⁸ What matters is the proof that the sale actually took place, coupled with the presentation in court of the prohibited drug, the *corpus delicti*, as evidence.⁵⁹

In this case, the testimonies of the witnesses, and the pieces of documentary and object evidence presented in the trial established the consummation of the sale. These showed that Alex indeed delivered *shabu* to I01 Molina, who in turn gave a marked ₱500 bill as payment. The confiscated item was also presented during the trial to prove the *corpus delicti* of the crime.

Alex also did not allege and show that the PDEA officers who composed the buy-bust team were prompted by ill motives in conducting the operation. Hence, there was no color of illegality in the conduct of the operation.

The prosecution's setback in this case lies in the failure of the drug enforcement officers to observe the chain of custody rule, specifically in proving the identity of the object of the sale, *i.e.*, the dangerous drugs. The Court agrees with Alex that the chain of custody rule was not properly observed during the operation.

⁵⁷ *People v. Magalong*, G.R. No. 231838, March 4, 2019 citing *People v. Sic-Open*, 795 Phil. 859, 869-870 (2016); *People v. Eda*, 793 Phil. 885, 896 (2016); *People v. Amaro*, 786 Phil. 139, 146-147 (2016); and *People v. Ros*, 758 Phil. 142, 159 (2015).

⁵⁸ *People v. Addin*, G.R. No. 223682, October 9, 2019 citing *People v. Magalong*, *supra*.

⁵⁹ *People v. Magalong*, *supra*.

Related to establishing the identity of the object of the illegal sale is the observance of the chain of custody rule. The chain of custody rule in Section 21, Article II of RA 9165 has been amended on July 15, 2014 by RA 10640⁶⁰ to the extent that the witness requirement during the marking of the seized items has been relaxed. But the applicable rule for this case is Section 21, Article II of RA 9165 prior to its amendment as the transaction happened on March 5, 2013. The relevant portion of Section 21 reads:

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 drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;

Section 21 of the Implementing Rules and Regulations of RA 9165 (**IRR of RA 9165**) also provides for the same requirements, the pertinent portion of which reads:

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:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that

⁶⁰ Republic Act No. 10640, 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”, Section 1 (2014).

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, 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;⁶¹

The foregoing provisions provide that the marking, photographing, and inventory of the seized items must be done immediately after seizure and confiscation of the items in the presence of three witnesses—a representative from the media, the Department of Justice (**DOJ**), and any elected official.⁶² The purpose of this rule is to preserve the integrity and evidentiary value of the seized dangerous drugs in order to fully remove doubts as to its identity.⁶³

The provisions allow exceptions to the chain of custody rule. The case of *Belmonte v. People*⁶⁴ mentions that under varied field conditions, the strict compliance with the requirements of Section 21, Article II of RA 9165 may not be always possible as long as the integrity and evidentiary value of the seized items are preserved.⁶⁵ The IRR of RA 9165 likewise provides that the marking, photographing, and inventory of the seized items may be done “at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures.”⁶⁶

In his testimony, IO1 Molina stated that he marked the seized items only in the PDEA National Headquarters in Quezon City.⁶⁷ They opted to leave the buy-bust site as soon as possible because of possible danger to their safety and because it was already night time.⁶⁸ The RTC ruled, as affirmed by the CA, that the failure to immediately mark the seized items at the place of arrest was not fatal to the prosecution.⁶⁹ This Court agrees with the RTC and the CA in this regard.

However, the Court notes that the PDEA officers failed to observe the three-witness requirement during the marking of the seized items. This lapse in procedure warrants the acquittal of Alex.

⁶¹ Implementing Rules and Regulations of Republic Act No. 9165, Otherwise Known as the “Comprehensive Dangerous Drugs Act of 2002,” Sec. 21, Art. II (2002).

⁶² See *People v. Addin*, *supra* note 58.

⁶³ See *People v. Caramat*, G.R. No. 231366, December 11, 2019, citing *People v. Alboka*, G.R. No. 212195, February 21, 2018.

⁶⁴ 811 Phil. 844 (2017).

⁶⁵ *Id.* at 859, citing *People v. Pavia*, 750 Phil. 871 (2015).

⁶⁶ Implementing Rules and Regulations of Republic Act No. 9165, Otherwise Known as the “Comprehensive Dangerous Drugs Act of 2002,” Sec. 21, Art. II (2002).

⁶⁷ TSN, September 20, 2013, pp. 31-33, 38-39.

⁶⁸ *Id.*

⁶⁹ CA *rollo*, p. 152; records, p. 174.

To reiterate, under Section 21, Article II of RA 9165 prior to its amendment, three (3) witnesses are required to be present during the marking, photographing, and inventory of the seized items—a representative from the media, the DOJ, and any elected official. It goes without saying that the accused or his representative or counsel should also be present. The case of *People v. Reyes*⁷⁰ discusses the requirement of three (3) witnesses and its importance, to wit:

Under the original provision of Section 21, after seizure and confiscation of the drugs, the apprehending team was required to immediately conduct a physical inventory and to photograph the same in the presence of (1) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) a representative from the media **and** (3) the DOJ, **and** (4) any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof. It is assumed that the presence of these three persons **will guarantee “against planting of evidence and frame up,”** i.e., they are “necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity.” (Emphases supplied)

In addition, the case of *People v. Mendoza*⁷¹ mentions:

The consequences of the failure of the arresting lawmen to comply with the requirements of Section 21 (1), *supra*, were dire as far as the Prosecution was concerned. Without the insulating presence of the representative from the media or the Department of Justice, or any elected public official during the seizure and marking of the sachets of shabu, the evils of switching, “planting” or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA No. 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the sachets of shabu that were evidence herein of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused. Indeed, the insulating presence of such witnesses would have preserved an unbroken chain of custody.⁷²

This requirement seeks to avoid frame ups or wrongful arrests of persons suspected to be violators of the law. The presence of the three witnesses assures that the officers conducting the operation do not plant evidence on the person or effects of the accused. The prosecution must allege and prove that at the time of the marking, photographing, and inventory of the evidence, the three witnesses were present.

Indubitably, this strict requirement is subject to exceptions as well. The case of *People v. Lim*⁷³ holds that in the event of absence of one or more of the witnesses, the prosecution must allege and prove that their presence during the inventory of the seized items was not obtained due to reasons such as:

⁷⁰ G.R. No. 219953, April 23, 2018, citing *People v. Sagana*, 815 Phil. 356 (2017).

⁷¹ 736 Phil. 749 (2014).

⁷² *Id.* at 764.

⁷³ G.R. No. 231989, September 4, 2018.

(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 retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) **earnest efforts to secure the presenee of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove[d] 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.⁷⁴ (Emphasis supplied)

The prosecution must show that the apprehending officers employed earnest efforts in procuring the attendance of witnesses for the inventory of the items seized during the buy-bust operation.⁷⁵ Mere statements of unavailability of the witnesses given by the apprehending officers are not justifiable reasons for non-compliance with the requirement.⁷⁶ This is because the apprehending officers usually have sufficient time, from the moment they received information about the alleged illegal activities until the time of the arrest, to prepare for the buy-bust operation that necessarily includes the procurement of three (3) witnesses.⁷⁷ If one of the individuals invited refuses to participate as witness, the apprehending officers can still invite another individual to become a witness.

In this case, only two (2) witnesses were present during the marking of the seized items. *Kagawad* Jose Ruiz of *Barangay* Pinyahan, Quezon City was the elected public official; Mr. Jimmy Mendoza was the representative from the media.⁷⁸ There was no representative from the DOJ. The records did not show that the prosecution explained or justified the absence of said representative from the DOJ during the marking, photographing, and inventory of the seized items. In fact, IO1 Molina, when asked during his cross examination, admitted that there were only two (2) witnesses present during the inventory of the seized items.⁷⁹ Neither did IO1 Molina nor IO1 Pinto provide any explanation to justify the absence of a representative from the DOJ.

Furthermore, the PDEA officers had sufficient time to procure a third witness. The records show that the operation was scheduled, and was in fact conducted late in the afternoon of March 5, 2013 with the actual buy-bust

⁷⁴ Id. citing *People v. Sipin*, G.R. No. 224290, June 11, 2018.

⁷⁵ *People v. Ramos*, G.R. No. 233744, February 28, 2018.

⁷⁶ Id.

⁷⁷ Id.

⁷⁸ Pictures During Inventory as Exhibits "P-1" and "P-2," folder of exhibits, pp.12-13; Joint Affidavit of Poseur Buyer and Arresting Officer dated March 6, 2013 as Exhibit "R," folder of exhibits, pp. 15-17; TSN, September 20, 2013, pp. 51-52.

⁷⁹ TSN, September 20, 2013, p. 68.

conducted at night. They had the whole day to procure the third witness after they were informed of the alleged illegal activities in the morning of the same day; yet, they have failed to do so.

The failure to comply with the three-witness requirement produces a gap in the chain of custody of the seized items that adversely affects the integrity and evidentiary value of the seized items.⁸⁰ This raises doubts that the integrity of the seized items may have been compromised.⁸¹

The prosecution also cannot just rely on the saving clause⁸² provided in Section 21 of the IRR of RA 9165. The clause requires showing of justifiable grounds for non-compliance and that the integrity and evidentiary value of the seized items were preserved. In this case, however, the prosecution failed to offer evidence to show justifiable grounds for non-compliance. It also failed to prove that the integrity and evidentiary value of the seized items were preserved despite this lapse in the procedure.

It is a well-settled rule that in criminal cases, the accused's guilt must be proven beyond reasonable doubt.⁸³ This burden lies with the prosecution. In this case, the prosecution was not able to prove Alex's guilt beyond reasonable doubt. The failure of the drug enforcement officers to observe the three-witness rule seriously compromised the integrity of the seized items and ultimately casted reasonable doubt on Alex's guilt.

WHEREFORE, the appeal is hereby **GRANTED**. The assailed October 5, 2017 Decision rendered by the Court of Appeals in CA-G.R. CR-HC No. 07736 is **REVERSED** and **SET ASIDE**. Accused-appellant Alex Baluyot y Biranda is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Decision be furnished the Director General, Bureau of Corrections, Muntinlupa City, for immediate implementation. Furthermore, the Director General of the Bureau of Corrections is **DIRECTED** to report to this Court the action he has taken within five (5) days from receipt of this Decision.

Let entry of judgment be issued immediately.

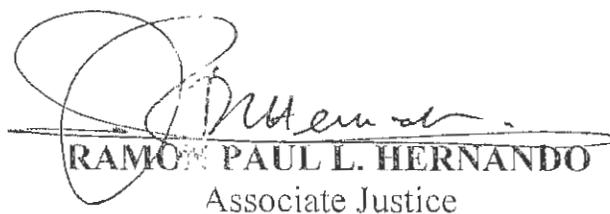
⁸⁰ *People v. Addin*, supra note 58.

⁸¹ *Id.*

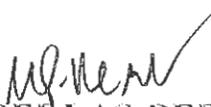
⁸² "Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items."

⁸³ RULES OF COURT, Rule 133, Section 2.

SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


HENRI JEAN PAUL B. INTING
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice

On leave
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

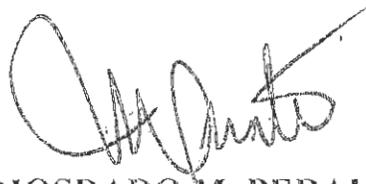
A T T E S T A T I O N

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


ESTELA M. BERLAS-BERNABE
Senior Associate Justice
Chairperson

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision 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