



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated March 18, 2021 which reads as follows:*

**“G.R. No. 206108 – ANDREW DOMINGO y JAYOBO @ INTOY, petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.**

After a careful review of the records of the instant case, the Court reverses and sets aside the Decision<sup>1</sup> dated September 26, 2012 and Resolution<sup>2</sup> dated February 28, 2013 of the Court of Appeals (CA) in CA-G.R. CR No. 32872, which affirmed the Judgment<sup>3</sup> dated August 27, 2009 rendered by the Regional Trial Court of Muntinlupa City, Branch 204 (RTC), in Criminal Case No. 06-838, finding petitioner Andrew Domingo y Jayobo @ Intoy (petitioner) guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. (RA) 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002.” The Court acquits petitioner for failure of the prosecution to prove his guilt beyond reasonable doubt.

For a successful prosecution for the crime of illegal possession of drugs under Section 11 of RA 9165, it is of paramount importance to establish with moral certainty, the identity and integrity of the seized drug. The prosecution has the burden of proving that the prohibited drug confiscated or recovered from the accused is the very same substance offered in court as evidence of the *corpus delicti* of the crime.<sup>4</sup> In other words, each link in the chain of custody of the

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<sup>1</sup> *Rollo*, pp. 82-96. Penned by Associate Justice Amy C. Lazaro-Javier (now a member of this Court) with Associate Justices Mariflor P. Punzalan Castillo and Edwin D. Sorongon, concurring.

<sup>2</sup> *Id.* at 112.

<sup>3</sup> *Records*, pp. 153-160. Penned by Presiding Judge Juanita T. Guerrero.

<sup>4</sup> See *People v. De Leon*, G.R. No. 214472, November 28, 2018, 887 SCRA 349, 362.

confiscated drug must be accounted for.<sup>5</sup> This requirement is necessary because of the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.<sup>6</sup>

In this regard, Section 21 of the same law outlines the measures to be followed in the seizure, initial custody and handling of confiscated illegal drugs and/or paraphernalia to ensure the identity and integrity of the *corpus delicti*. Section 21 and its Implementing Rules and Regulations (IRR) mandate the police officers to conduct a physical inventory of the seized items and the photographing of the same immediately after seizure and confiscation, 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 of the same.<sup>7</sup>

All of these requirements must be strictly complied with to secure a conviction for illegal possession of drugs under Section 11 of RA 9165 because it is only by such strict compliance that the grave mischiefs of planting, switching and contamination of evidence may be eradicated.

The mandatory procedure in Section 21 applies to warrantless seizures even when the same was not made in relation to a buy-bust operation. Thus, in the cases of *Mariñas v. People*,<sup>8</sup> *Ramos v. People*,<sup>9</sup> *Santos v. People*,<sup>10</sup> *Hedreyda v. People*,<sup>11</sup> *Limbo v. People*,<sup>12</sup> and *Fuentes v. People*,<sup>13</sup> where the accused was caught *in flagrante delicto* for possession of illegal drugs, as in this case, the Court applied the requirements of Section 21 of RA 9165 and acquitted the accused for failure of the police officers to secure the three (3) required witnesses during the conduct of the inventory and photography of the seized items. The Court has consistently emphasized that the presence of the enumerated witnesses — namely, an elected official, as well as a

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<sup>5</sup> Id.

<sup>6</sup> *People v. Beran*, G.R. No. 203028, January 15, 2014, 714 SCRA 165, 189.

<sup>7</sup> *People v. De Leon*, supra note 4, at 363-364.

<sup>8</sup> G.R. No. 232891, July 23, 2018, 873 SCRA 472.

<sup>9</sup> G.R. No. 233572, July 30, 2018, 874 SCRA 595.

<sup>10</sup> G.R. No. 232950, August 13, 2018, 877 SCRA 160.

<sup>11</sup> G.R. No. 243313, November 27, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66031>>.

<sup>12</sup> G.R. No. 238299, July 1, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65440>>.

<sup>13</sup> G.R. No. 228718, January 7, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64880>>.

representative from the DOJ and the media — during the seizure and inventory of the seized items is required by law to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.<sup>14</sup>

Following the foregoing cases, petitioner should perform be acquitted because the police officers in this case also failed to secure the presence of the mandatory witnesses during the inventory and photographing of the drugs confiscated from petitioner.

PO1 Gary Emer Abraham Arandia (PO1 Arandia), the arresting police officer, narrated that the inventory taking was witnessed by their team leader and other police officers; while the Certificate of Inventory was signed by their team leader and an employee of the local government.<sup>15</sup> In addition, a perusal of the records categorically shows that neither the accused nor his representative signed the inventory. This is confirmed by the Certificate of Inventory<sup>16</sup> dated September 12, 2006 issued by SPO1 Benjamin Madriaga and signed only by a certain Rene A. Solivio, Jr., an employee of the Mayor's Office. The absence of the witnesses required under law creates doubt and suspicion about the integrity and credibility of the seizure and confiscation of the prosecution's evidence and thus, on the accusation that petitioner violated RA 9165.

The Court recognizes, however, that strict compliance with the legal prescriptions of RA 9165 may not always be possible. The IRR of RA 9165, in fact, offers some flexibility in complying with its express requirements, *i.e.*, “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[.]” However, for this saving clause to apply, the prosecution still needs to satisfactorily prove that: (a) there is justifiable ground for non-compliance and the police officers exerted earnest efforts to comply with the law; and (b) the integrity and evidentiary value of the seized items are properly preserved.<sup>17</sup> In *Valencia v. People*,<sup>18</sup> the Court held:

x x x Further, the non-compliance with the procedures must be justified by the State's agents themselves. **The arresting officers are under obligation, should they be unable to comply with the procedures laid down under Section 21,**

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<sup>14</sup> *People v. Guieb*, G.R. No. 233100, February 14, 2018, 855 SCRA 620, 637.

<sup>15</sup> Records, 155-156. See also TSN, January 30, 2008, p. 17.

<sup>16</sup> Exhibit “C”, *id.* at 104.

<sup>17</sup> See *Ramos v. People*, *supra* note 9, at 610.

<sup>18</sup> G.R. No. 198804, January 22, 2014, 714 SCRA 492.

**Article II of R.A. No. 9165, to explain why the procedure was not followed and prove that the reason provided a justifiable ground.** Otherwise, the requisites under the law would merely be fancy ornaments that may or may not be disregarded by the arresting officers at their own convenience.<sup>19</sup> (Emphasis supplied and citations omitted)

In this case, the prosecution failed to establish any justifiable reason for the police officers' failure to comply with the requirements of Section 21. There is even no showing that the police officers exerted earnest efforts to contact any of the three (3) witnesses required under the law. These unexplained breaches of the mandated procedure leave the Court without any guarantee as to the integrity of the drugs allegedly confiscated from petitioner other than the self-serving assurances of the police officers. This is precisely the situation that RA 9165 seeks to prevent.<sup>20</sup> Thus, absent any proof, beyond reasonable doubt, of the *corpus delicti* of the crime charged, petitioner's presumption of innocence must be upheld and his acquittal must ensue.

**WHEREFORE**, the Petition<sup>21</sup> is hereby **GRANTED**. The Decision dated September 26, 2012 and Resolution dated February 28, 2013 of the Court of Appeals in CA-G.R. CR No. 32872 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner **ANDREW DOMINGO y JAYOBO @ INTOY** is **ACQUITTED** of the crime charged for failure of the prosecution to establish his guilt beyond 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 General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The said Director General is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he has taken.

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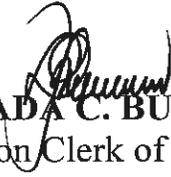
<sup>19</sup> Id. at 511.

<sup>20</sup> *People v Que*, GR No. 212994, January 31, 2018, 853 SCRA 487, 516.

<sup>21</sup> *Rollo*, pp. 2-20.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *9/10/21*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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Court of Appeals (x)  
Manila  
(CA-G.R. CR No. 32872)

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

The Hon. Presiding Judge  
Regional Trial Court, Branch 204  
1770 Muntinlupa City  
(Crim. Case No. 06-838)

The Director General (x)  
Bureau of Corrections  
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