



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 3, 2021** which reads as follows:*

“G.R. No. 234284 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus BERNIE MANANSALANG Y LAJARA, accused-appellant.

Upon an exhaustive review of the instant case, the Court **GRANTS** the appeal and **REVERSES** and **SETS ASIDE** the Decision¹ dated May 18, 2017 (assailed Decision) of the Court of Appeals (CA), in CA-G.R. CR-HC No. 08363, which affirmed the Decision² dated May 24, 2016 of the Regional Trial Court of Manila, Branch 2 (trial court), in Criminal Cases Nos. 14-308109 and 14-308110, convicting accused-appellant Bernie Manansalang y Lajara (Manansalang) with violations of Sections 5 and 11, Article II of Republic Act No. (R.A.) 9165,³ otherwise known as the “Dangerous Drugs Act of 2002,” as amended by R.A. 10640.⁴

In the prosecution of the crimes of selling and possession of illicit drugs, aside from proof beyond reasonable doubt that the offenses were committed, there must be proof of the identity and integrity of the *corpus delicti* — the illicit drug itself.⁵ There must be

- over – eight (8) pages ...

85-A

¹ *Rollo*, pp 2-17. Penned by Associate Justice Normandie B. Pizarro and concurred in by Associate Justices Samuel H. Gaerlan (now a Member of this Court) and Jhosep Y. Lopez (also a Member of this Court).

² *CA rollo*, pp. 43-50. Penned by Presiding Judge Sarah Alma M. Lim.

³ Entitled, “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,” approved on June 7, 2002.

⁴ Entitled, “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.

⁵ *People v. Barte*, G.R. No. 179749, March 1, 2017, 819 SCRA 10, 20.

an accounting of the following links in its chain of custody: *first*, the seizure and marking of the illicit drug recovered from the accused by the apprehending officer; *second*, the turnover of the seized illicit drug by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the seized illicit drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the seized illicit drug by the forensic chemist to the court.⁶

Hence, the starting point in the custodial link is the **marking** which is the placing by the apprehending officer or the *poseur-buyer* of his/her initials and signature on the items after they have been seized.⁷ The Court has held that the marking **must be made immediately upon confiscation and in the presence of the apprehended violator**, as succeeding handlers of the seized specimens will use such markings as reference.⁸

As for the procedures in handling the seized items after the marking, Section 21, Article II of R.A. 9165, as amended by R.A. 10640, requires, among others, that: (1) the seized items must be physically inventoried and photographed immediately after seizure or confiscation; (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, and (c) a representative from the National Prosecution Service (NPS), or a representative from the media, who shall be required to sign the copies of the inventory and be given a copy thereof; and (3) the physical inventory and photographing must be conducted at the (a) place where the search warrant is served, (b) nearest police station, or (c) nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizure.

In a plethora of cases, the Court has held that **Section 21 requires nothing less than strict compliance with the foregoing requirements.**⁹ This is because they guard against tampering, substitution and planting of evidence.¹⁰ Even acts which approximate compliance but do not strictly comply with Section 21 have been

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85-A

⁶ *Jacson v. People*, G.R. No. 199644, June 19, 2019, 904 SCRA 537, 548.

⁷ *People v. Paz*, G.R. No. 233466, August 7, 2019, 912 SCRA 471.

⁸ *People v. Sabdula*, 733 Phil. 85, 95 (2014); *People v. Lumaya*, G.R. No. 231983, March 7, 2018, 858 SCRA 114, 131; *People v. Ismael*, G.R. No. 208093, February 20, 2017, 818 SCRA 112, 134.

⁹ *See Ramos v. People*, G.R. No. 233572, July 30, 2018, 874 SCRA 595, 609; *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 42, 62; *People v. Suarez*, G.R. No. 223141, June 6, 2018, 865 SCRA 281, 291; *People v. Balubal*, G.R. No. 234033, July 30, 2018, 875 SCRA 1, 19.

¹⁰ *People v. Que*, G.R. No. 212994, January 31, 2018, 853 SCRA 487, 509.

considered by the Court as insufficient.¹¹ Ultimately, procedural lapses in the chain of custody of the seized illicit drug, which is the *corpus delicti*, creates uncertainty over its identity. Hence, there becomes a failure to establish an essential element of the crime charged, leading to the acquittal of the accused based on reasonable doubt.¹²

Hence, the Court, in several cases which include *People v. Garcia*,¹³ *People v. Royol*,¹⁴ *People v. Gabriel*,¹⁵ *People v. Del Rosario*,¹⁶ *People v. Ordiz*,¹⁷ *People v. Zapanta*,¹⁸ and *People v. Saragena*,¹⁹ where the apprehending officers failed to comply with **all** the procedural requirements of Section 21 and jurisprudence in the initial custody of the seized illegal drugs, ruled that this wholesale lapse necessarily leads to the acquittal of the accused as the prosecution utterly failed to establish the *corpus delicti*.

Similar to these cases, the present charges against Manansalang must likewise be dismissed because the buy-bust team absolutely disregarded the initial custodial mandates of Section 21 and jurisprudence on seized illicit drugs.

First, the seized illicit drugs were not marked immediately after seizure at the place of confiscation. Instead, the marking was deferred to a later time at the police station.

Marking is the first link in the chain of custody and serves as a reference of all succeeding handlers of the seized illicit drugs, as well as renders them distinct and identifiable from all other seized illicit drugs in the custody of the police officers.²⁰ As such it must be done immediately upon confiscation.²¹ In *People v. Lumaya*,²² the Court emphasized the importance of the immediate marking upon confiscation of the seized items in the preservation of their integrity and evidentiary value, as well as the rationale therefor, thus:

x x x The importance of the prompt marking cannot be denied, because succeeding handlers of dangerous drugs or related

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85-A

¹¹ Id. at 509.

¹² *People v. Dahil*, 750 Phil. 212, 226 (2015).

¹³ 599 Phil. 416 (2009).

¹⁴ G.R. No. 224297, February 13, 2019, 893 SCRA 54.

¹⁵ G.R. No. 228002, June 10, 2019, accessed at <<https://sc.judiciary.gov.ph/5752/>>.

¹⁶ G.R. No. 235658, June 22, 2020, accessed at <<https://sc.judiciary.gov.ph/13848/>>.

¹⁷ G.R. No. 206767, September 11, 2019, accessed at <<https://sc.judiciary.gov.ph/9841/>>.

¹⁸ G.R. No. 230227, November 6, 2019, accessed at <<https://sc.judiciary.gov.ph/10712/>>.

¹⁹ 817 Phil. 117 (2017).

²⁰ *People v. Asjali*, G.R. No. 216430, September 3, 2018, 878 SCRA 514, 528.

²¹ *People v. Lumaya*, supra note 8, at 132.

²² Id.

items will use the marking as reference. Also, the marking operates to set apart as evidence the dangerous drugs or related items from other material from the moment they are confiscated until they are disposed of at the close of the criminal proceedings, thereby forestalling switching, planting or contamination of evidence. In short, **the marking immediately upon confiscation or recovery of the dangerous drugs or related items is indispensable in the preservation of their integrity and evidentiary value x x x.**²³

Thus, an unjustified delay in the marking of the seized illicit drugs renders doubtful the identity and integrity of the *corpus delicti*. This is especially true when, as in this case, the processes succeeding the marking — the physical inventory and photographing — were only conducted at the police station instead of at the place of the arrest. In such cases, the prompt marking ensures that the items seized from the accused are the same ones later subjected to inventory and photographing.

Thus, in a series of cases that includes *People v. Paz*,²⁴ *People v. Hementiza*,²⁵ *People v. Diputado*,²⁶ *People v. Beran*,²⁷ *People v. Ismael*,²⁸ and *People v. Dahil*,²⁹ where the buy-bust team failed to mark the seized items immediately after confiscation at the place of arrest but only at the barangay hall or police station, and in cases such as *People v. Gonzales*³⁰ and *People v. Angngao*,³¹ where it was not explained where and how the markings were made, the Court acquitted the accused for failure of the prosecution to establish the identity of the *corpus delicti*.

Second, the physical inventory and photographing were not made immediately upon confiscation as required by Section 21.

As mentioned, Section 21 requires that the physical inventory be made immediately upon confiscation. The phrase “immediately after seizure and confiscation” means that the physical inventory and photographing of the drugs were intended to be made immediately after, or at the place of apprehension.³² It is only when the same is not

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85-A

²³ Id. at 131-132. Emphasis supplied; underscoring omitted.

²⁴ Supra note 7.

²⁵ G.R. No. 227398, March 22, 2017, 821 SCRA 470.

²⁶ G.R. No. 213922, July 5, 2017, 830 SCRA 172.

²⁷ 724 Phil. 788 (2014).

²⁸ Supra note 8.

²⁹ Supra note 12.

³⁰ G.R. No. 182417, April 3, 2013, 695 SCRA 123.

³¹ G.R. No. 189296, March 11, 2015, 752 SCRA 531.

³² *People v. Manabat*, G.R. No. 242947, July 17, 2019, 909 SCRA 543, 563.

practicable that the law allows these activities to be done at the police station or nearest office of the apprehending team.³³

In a plethora of similar cases including *Ramos v. People*,³⁴ *People v. Sebilleno*,³⁵ *People v. Deliña*,³⁶ *People v. Sali*,³⁷ *People v. Padua*,³⁸ *People v. Dumanjug*,³⁹ *People v. Kasan*,⁴⁰ *People v. Cañete*,⁴¹ and *People v. Olivia*,⁴² where both the inventory and photographing were not conducted immediately upon confiscation at the place of arrest, the Court held that this lapse merited the acquittal of the accused for failure to establish the identity and integrity of the *corpus delicti*.

Third, there was failure to comply with the requirements of Section 21 as to the presence of witnesses during the inventory and photographing of the seized items. Only one — a media representative — of the two required witnesses of Section 21 attended the taking of inventory and photographs.

As mentioned, Section 21 requires that these procedures be witnessed by 1) an elected public official and 2) a representative from the NPS or a representative from the media, who shall all sign the copies of the inventory and be given such copy. In the present case, the elected public official was missing as a witness.

In a series of cases, that includes *People v. Mendoza*,⁴³ *People v. Reyes*,⁴⁴ *People v. Sagana*,⁴⁵ *People v. Calibod*,⁴⁶ *People v. Tomawis*,⁴⁷ *Hedreyda v. People*,⁴⁸ *People v. Sta. Cruz*,⁴⁹ *Tañamor v. People*,⁵⁰ *People v. Arellaga*,⁵¹ *People v. Casilang*,⁵² *People v. Bangalan*,⁵³ and *People v. Misa*,⁵⁴ the Court has emphasized the

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85-A

³³ Id. at 563.

³⁴ Supra note 9.

³⁵ G.R. No. 221457, January 13, 2020, accessed at <<https://sc.judiciary.gov.ph/11451/>>.

³⁶ G.R. No. 243578, June 30, 2020, accessed at <<https://sc.judiciary.gov.ph/13900/>>.

³⁷ G.R. No. 236596, January 29, 2020, accessed at <<https://sc.judiciary.gov.ph/10668/>>.

³⁸ G.R. No. 239781, February 5, 2020, accessed at <<https://sc.judiciary.gov.ph/10827/>>.

³⁹ G.R. No. 235468, July 1, 2019, 907 SCRA 89.

⁴⁰ G.R. No. 238334, July 3, 2019, accessed at <<https://sc.judiciary.gov.ph/7654/>>.

⁴¹ G.R. No. 242018, July 3, 2019, 907 SCRA 536.

⁴² G.R. No. 234156, January 7, 2019, 890 SCRA 106.

⁴³ 736 Phil. 749 (2014).

⁴⁴ G.R. No. 199271, October 19, 2016, 806 SCRA 513.

⁴⁵ 815 Phil. 356 (2017).

⁴⁶ G.R. No. 230230, November 20, 2017, 845 SCRA 370.

⁴⁷ G.R. No. 228890, April 18, 2018, 862 SCRA 131.

⁴⁸ G.R. No. 243313, November 27, 2019, accessed at <<https://sc.judiciary.gov.ph/10451/>>.

⁴⁹ G.R. No. 244256, November 25, 2019, accessed at <<https://sc.judiciary.gov.ph/10003/>>.

⁵⁰ G.R. No. 228132, March 11, 2020, accessed at <<https://sc.judiciary.gov.ph/12370/>>.

⁵¹ G.R. No. 231796, August 24, 2020, accessed at <<https://sc.judiciary.gov.ph/13590/>>.

⁵² G.R. No. 242159, February 5, 2020, accessed at <<https://sc.judiciary.gov.ph/12219/>>.

⁵³ G.R. No. 232249, September 3, 2018, 878 SCRA 533.

⁵⁴ G.R. No. 236838, October 1, 2018, 881 SCRA 254.

importance of the presence of the required witnesses during the inventory and photographing of the seized items, as the same protects against the possibility of planting, switching, contamination or loss of the seized illicit drugs. The presence of these witnesses should belie any doubt on the source, identity, and integrity of the seized illicit drugs. The nature of buy-bust operations being planned makes this requirement easy to observe for the buy-bust team, which has enough time to gather and bring said witnesses to the buy-bust site where the inventory and photographing must be made immediately upon seizure.⁵⁵

Clearly, thus, there was utter failure by the apprehending officers to comply with the initial custodial requirements of the law. Despite this, the prosecution's case may still be salvaged under the saving clause of Section 21 of the Implementing Rules and Regulations, which provides 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 and custody over said items." Applying this in a series of cases which includes *People v. Ceralde*,⁵⁶ *People v. Flores*,⁵⁷ *People v. Alagarme*,⁵⁸ *People v. Sanchez*,⁵⁹ *People v. Adobar*,⁶⁰ *People v. Año*,⁶¹ *People v. Libre*,⁶² *People v. Luna*,⁶³ *People v. Muhammad*,⁶⁴ *People v. Que*,⁶⁵ and *People v. Lim*,⁶⁶ the Court has emphasized that for the exemption from strict compliance with Section 21 to attach, the prosecution must prove: (1) the existence of justifiable grounds to allow such departure; and (2) that the integrity and evidentiary value of the seized items are properly preserved. On the first requisite, the prosecution must first recognize the lapses on the part of the apprehending team and thereafter explain the same with justifiable reasons, which must, by themselves, be credible and show earnest efforts to comply with Section 21.⁶⁷

In the present case, while the apprehending officers acknowledged their lapses in complying with the procedures,

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85-A

⁵⁵ *People v. Musor*, G.R. No. 231843, November 7, 2018, 885 SCRA 154, 170-171.

⁵⁶ 815 Phil. 711 (2017).

⁵⁷ G.R. No. 234048, April 23, 2018, 862 SCRA 521.

⁵⁸ 754 Phil. 449 (2015).

⁵⁹ 590 Phil. 214 (2008).

⁶⁰ G.R. No. 222559, June 6, 2018, 865 SCRA 220.

⁶¹ 828 Phil. 439 (2018).

⁶² G.R. No. 235980, August 20, 2018, 878 SCRA 260.

⁶³ G.R. No. 219164, March 21, 2018, 860 SCRA 1.

⁶⁴ G.R. No. 218803, July 10, 2019, 908 SCRA 336.

⁶⁵ Supra note 10.

⁶⁶ G.R. No. 231989, September 4, 2018, accessed at <<https://sc.judiciary.gov.ph/934/>>.

⁶⁷ *People v. Cayas*, G.R. No. 206888, July 4, 2016, 795 SCRA 459, 469; *People v. Patacsil*, G.R. No. 234052, August 6, 2018, 876 SCRA 348, 367.

particularly as to their failure to mark, make an inventory, and take photographs of the seized items on-site, the prosecution's only explanation for this lapse is that the apprehending officers were not able to bring a pentel pen and inventory form with them during the buy-bust operation.⁶⁸ This hardly counts as a justification especially considering that the law requires nothing less than strict compliance with the requirements of Section 21. As mentioned, buy-bust operations are, by nature, planned — hence, the buy-bust team has sufficient time to prepare everything that would be needed for the operation. As to its failure to produce the required witnesses for the inventory and photography, the buy-bust team did not even recognize such lapse, let alone explain the same. This failure to acknowledge and justify the lapses bolsters the doubt on the integrity of the evidence supposedly seized from Manansalang.

In sum, the wholesale failure of the apprehending officers in complying with the mandatory procedures of case law and R.A. 9165, as amended by R.A. 10640, in the seizure and handling of the seized illicit drugs, and their corresponding failure to adduce justifiable grounds for such lapses, create reasonable doubt on the integrity and identity of the *corpus delicti*, and on the very guilt of Manansalang. As such, he must be acquitted.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated May 18, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08363 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **BERNIE MANANSALANG y LAJARA** is **ACQUITTED** of the crimes charged for failure of the prosecution to establish his guilt beyond reasonable doubt. He is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being 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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85-A

⁶⁸ CA rollo, pp. 45-46.

**SO ORDERED.” Gaerlan, J., no part; Delos Santos, J.,
designated as Additional Member per Raffle dated January 20, 2021.**

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *m/v*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 08363)

The Hon. Presiding Judge
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