



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. 248428 — PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus RENATO BIASON Y TIBIG @ “ATONG,” accused-appellant.**

After a careful review of the records of the instant case, the Court reverses and sets aside the Decision<sup>1</sup> dated November 22, 2018 issued by the Court of Appeals – Seventh Division (CA) in CA-G.R. CR-HC No. 09918, which affirmed the Decision<sup>2</sup> dated August 16, 2017 of Branch 41, Regional Trial Court of Dagupan City (RTC) finding accused-appellant Renato Biason y Tibig (accused-appellant Biason) guilty of illegal possession of 0.080 gram of methamphetamine hydrochloride and illegal sale of 0.064 gram of methamphetamine hydrochloride.

The Court acquits accused-appellant Biason for failure of the prosecution to establish beyond reasonable doubt the *corpus delicti* of the offenses charged.

In cases involving dangerous drugs, the Court must determine whether the dangerous drug, the *corpus delicti* of the crime, reached the court with its identity and integrity preserved.<sup>3</sup> This must be established with moral certainty.<sup>4</sup> In arriving at this certainty, the very

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<sup>1</sup> *Rollo*, pp. 3-24. Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Danton Q. Bueser and Pablito A. Perez concurring.

<sup>2</sup> *CA rollo*, pp. 50-64. Penned by Presiding Judge Emma M. Torio.

<sup>3</sup> *People v. Crispo*, 828 Phil. 416, 429 (2018); *People v. Sanchez*, 827 Phil. 457, 465 (2018); *People v. Magsano*, 826 Phil. 947, 959 (2018); *People v. Manansala*, 826 Phil. 578, 586 (2018).

<sup>4</sup> *People v. Gamboa*, G.R. No. 233702, June 20, 2018, 867 SCRA 548, 563, citing *People of the Philippines v. Umipang*, G.R. No. 190321, April 25, 2012, 686 Phil. 1024, 1039-1040 (2012).

mt.

nature of prohibited drugs, they being susceptible to tampering and error, circumscribes the burden of the State in prosecuting the crime.<sup>5</sup>

Thus, in order to obviate any unnecessary doubt as to its identity, it is imperative for the prosecution to show that the dangerous drug seized from the accused is the very same substance offered in court and that the identity of the seized item is established with the same unwavering exactitude as that required to make a finding of guilt.<sup>6</sup> Otherwise stated, 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.<sup>7</sup> Accordingly, the burden lies on the prosecution to prove each link in the chain of custody.

The prosecution's burden in proving the *corpus delicti* is discharged by a faithful compliance of Section 21, Article II of Republic Act (R.A.) No. 9165, the law applicable at the time of the commission of the offenses.<sup>8</sup> Said provision requires that: (1) the seized items must be 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 media or a representative from the Department of Justice, all of whom shall be required to sign the copies of the inventory and be given a copy of the same; and (3) the seized drugs must be turned over to the Philippine National Police Crime Laboratory within 24 hours from confiscation for examination.

Here, the Court finds that the apprehending officers failed to faithfully abide by the foregoing requirements.

**First, the insulating witnesses were not present at the time of the seizure of the drugs.** Indeed, while the Implementing Rules and Regulations (IRR) of R.A. No. 9165 allows alternative places for the conduct of the inventory and photographing of the seized drugs, the requirement of having the insulating witnesses physically present at the time or near the place of apprehension is not dispensed with. The reason is simple: it is at the time of arrest — or at the time of the

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<sup>5</sup> *People v. Lopez*, G.R. No. 247974, July 13, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66294>>.

<sup>6</sup> *People v. Labsan*, G.R. No. 227184, February 6, 2019, 892 SCRA 112, 128-129.

<sup>7</sup> *People v. Año*, G.R. No. 230070, March 14, 2018, 828 Phil. 439, 448 (2018).

<sup>8</sup> The commission of the crimes charged occurred prior to the effectivity of R.A. No. 10640 which amended Section 21, Article II of R.A. No. 9165.

drugs' seizure and confiscation — that the presence of the witnesses is most needed, as it is their presence at the time of seizure and confiscation that would insulate against the police practice of planting evidence.<sup>9</sup> It is at this point when their presence is most needed to ensure the source, identity, and integrity of the seized drugs.<sup>10</sup>

The Court has repeatedly pointed out that this requirement can easily be complied by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity.<sup>11</sup> In *People v. Gamboa*,<sup>12</sup> the Court held that the prosecution must show that earnest efforts were employed in contacting the witnesses required under the law. Considering that buy-bust operations are planned operations, police officers are given sufficient time to prepare and consequently make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed by Section 21, Article II of R.A. No. 9165.<sup>13</sup> They are therefore compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.<sup>14</sup>

The prosecution made no attempts at showing compliance with the statutory requirement and offered no justification for such an egregious lapse. It does not appear in the records that the buy-bust team tried to secure the presence of the witnesses at the time of apprehension. This simply did not factor in its preparation of the buy-bust operation or in the actual conduct of the same.

**Second, there was only one witness present during the inventory of the confiscated items in direct violation of Section 21, Article II of R.A. No. 9165.** The inventory and photograph-taking were only witnessed by the Barangay Captain. The prosecution offered no explanation for the failure to secure the other required witnesses, *i.e.*, a representative from the National Prosecution Service and the media.

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<sup>9</sup> *People v. De Leon*, G.R. No. 214472, November 28, 2018, 887 SCRA 349, 364; *People v. Labsan*, supra note 6 at 116.

<sup>10</sup> *People v. Callejo*, G.R. No. 227427, June 6, 2018, 865 SCRA 405, 431.

<sup>11</sup> *People v. Labsan*, supra note 6 at 130; *People v. Supat*, G.R. No. 217027, June 6, 2018, 865 SCRA 45, 67; *People v. Casco*, G.R. No. 212819, November 28, 2018, 887 SCRA 322, 335-336.

<sup>12</sup> Supra note 4.

<sup>13</sup> Id. at 569-570.

<sup>14</sup> Id. at 570.

In a long line of cases including *People v. Mendoza*,<sup>15</sup> *People v. Reyes*,<sup>16</sup> *People v. Sagana*,<sup>17</sup> *People v. Calibod*,<sup>18</sup> *People v. Tomawis*,<sup>19</sup> *Hedreyda v. People*,<sup>20</sup> *People v. Sta. Cruz*,<sup>21</sup> *Tañamor v. People*,<sup>22</sup> *People v. Arellaga*,<sup>23</sup> and *People v. Casilang*,<sup>24</sup> the Court has consistently emphasized that the presence of all the required witnesses at the time of the inventory and photography of the seized drug is mandatory and the law imposes the said requirement because their presence serves to protect against the possibility of planting, switching, contamination or loss of the seized drug. The presence of these disinterested witnesses would belie any doubt as to the source, identity, and integrity of the seized drug.

**Strict adherence with Section 21, Article II of R.A. No. 9165 remains to be the rule.** This is a singular and rigid standard.<sup>25</sup> Anything less than strict adherence would automatically be a deviation from the chain of custody rule that would only pass judicial muster in the most exacting of standards following the twin requirements of: (1) existence of justifiable reasons, and (2) preservation of the integrity and evidentiary value of the seized items.<sup>26</sup> In the case at bar, the prosecution failed on both counts.

Indeed, much has been said about the conduct of buy-bust operations as a tool in flushing out illegal transactions that are otherwise conducted covertly and in secrecy.<sup>27</sup> While the Court has refrained from imposing a certain method to be followed in the conduct of buy-bust operations<sup>28</sup> and has generally left to the discretion of police authorities the selection of effective means to apprehend drug dealers,<sup>29</sup> the buy-bust operations' peculiar characteristics of having the benefit of planning and coordination<sup>30</sup>

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<sup>15</sup> 736 Phil. 749 (2014).

<sup>16</sup> 797 Phil. 671 (2016).

<sup>17</sup> 815 Phil. 356 (2017).

<sup>18</sup> 820 Phil. 1225 (2017).

<sup>19</sup> 830 Phil. 385 (2018).

<sup>20</sup> G.R. No. 243313, November 27, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66031>>.

<sup>21</sup> G.R. No. 244256, November 25, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65946>>.

<sup>22</sup> G.R. No. 228132, March 11, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66109>>.

<sup>23</sup> G.R. No. 231796, August 24, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66340>>.

<sup>24</sup> G.R. No. 242159, February 5, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66075>>.

<sup>25</sup> *People v. Lopez*, supra note 5.

<sup>26</sup> IRR of R.A. No. 9165, Sec. 21 (a).

<sup>27</sup> *People v. Garcia*, 599 Phil. 416 (2009).

<sup>28</sup> *Castro v. People*, 597 Phil. 722, 730-731 (2009).

<sup>29</sup> *Quinicot v. People*, 608 Phil. 259, 274-275 (2009).

<sup>30</sup> *People v. Luna*, 828 Phil. 671, 688 (2018).

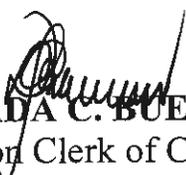
impels the Court to adopt an exacting approach in scrutinizing compliance with statutory law and jurisprudential safeguards.<sup>31</sup>

**WHEREFORE**, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated November 22, 2018 of the Court of Appeals – Seventh Division in C.A.-G.R. CR-HC No. 09918 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **RENATO BIASON Y TIBIG ALIAS “ATONG”** is **ACQUITTED** of the crimes 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 sent to the Superintendent of the New Bilibid Prison in Muntinlupa City, for immediate implementation. The said Superintendent is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he has taken. A copy shall also be furnished to the Director General of the Philippine National Police for his information.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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<sup>31</sup> *People v. Umipang*, supra note 4, at 1033.

The Solicitor General  
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Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 09918)

The Hon. Presiding Judge  
Regional Trial Court, Branch 41  
Dagupan City, 2400 Pangasinan  
(Crim. Case Nos. 2014-0206-D  
& 2014-0207-D)

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