



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **February 17, 2021** which reads as follows:

**“G.R. No. 242210 — PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus EDGARDO CABRILLAS RIBAY alias “EGAY,” accused-appellant.**

After a careful review of the records of the instant case, the Court **GRANTS** the appeal and **REVERSES** and **SETS ASIDE** the Decision<sup>1</sup> dated May 16, 2018 of the Court of Appeals Special Fifteenth Division (CA) in C.A.-G.R. CR-HC No. 09482 which affirmed the Consolidated Decision<sup>2</sup> dated May 29, 2017 of Branch 165, Regional Trial Court, Marikina City (RTC) in Criminal Case Nos. 2012-4034-D-MK and 2012-4035-D-MK titled “*People of the Philippines v. Edgardo Cabrillas Ribay @ ‘Egay,’*” finding the accused Edgardo Cabrillas Ribay (Ribay) guilty beyond reasonable doubt for violations of Sections 5 and 11 of Republic Act (R.A.) No. 9165, respectively, otherwise known as *The Comprehensive Dangerous Drugs Act of 2002*.

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. 2-20. Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justice Ramon Paul L. Hernando (now a Member of this Court), and Associate Justice Rafael Antonio M. Santos concurring.

<sup>2</sup> *Id.* at 53-69. Penned by Judge Acerey C. Pacheco.

<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 v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

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> The prosecution's burden in proving the *corpus delicti* is discharged by a faithful compliance of Section 21, Article II of R.A. No. 9165, the law applicable at the time of the commission of the alleged crimes.<sup>8</sup>

The Court in *People v. Quilatan*,<sup>9</sup> emphasized that the requirements laid down in Section 21 of R.A. No. 9165 are not mere suggestions or recommendations. Hence, in several cases which include *People v. Garcia*,<sup>10</sup> *People v. Royol*,<sup>11</sup> *People v. Gabriel*,<sup>12</sup> *People v. Del Rosario*,<sup>13</sup> *People v. Ordiz*,<sup>14</sup> *People v. Zapanta*,<sup>15</sup> and *People v. Saragena*,<sup>16</sup> the Court acquitted the accused due to failure of the police officers to comply with all the requirements of Section 21. In these cases, the wholesale violation of Section 21 led to an obvious failure to establish the *corpus delicti* and, hence, to the acquittal of the accused based on reasonable doubt.

Among the requirements of Section 21 of R.A. No. 9165 and its implementing rules and regulations are the presence of the three insulating witnesses — *i.e.*, a media representative, a representative from the Department of Justice (DOJ), and any elected public official

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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*, 828 Phil. 439, 448 (2018).

<sup>8</sup> The commission of the alleged crimes transpired prior to the amendment of Section 21, R.A. No. 9165 by R.A. No. 10640.

<sup>9</sup> G.R. No. 218107, September 9, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65771>>.

<sup>10</sup> 599 Phil. 416 (2009).

<sup>11</sup> G.R. No. 224297, February 13, 2019, 893 SCRA 54.

<sup>12</sup> G.R. No. 228002, June 10, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65279>>.

<sup>13</sup> G.R. No. 235658, June 22, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66342>>.

<sup>14</sup> G.R. No. 206767, September 11, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65741>>.

<sup>15</sup> G.R. No. 230227, November 6, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66244>>.

<sup>16</sup> 817 Phil. 117 (2017).

— and the immediate conduct of the physical inventory and photographing of the seized items. In this case, however, the buy-bust team failed to comply with these requirements and the prosecution made no attempt at explaining such egregious lapses.

A perusal of the records and the evidence presented by the prosecution shows that, even believing its version of the events that transpired during the buy-bust operation, the buy-bust team made no effort at all to secure the presence of the three required witnesses for the buy-bust operation.

After allegedly receiving a tip from a confidential informant at around 4:00 in the afternoon,<sup>17</sup> a buy-bust team was formed and a briefing was conducted.<sup>18</sup> The buy-bust team proceeded to the target area around 8:30 in the evening.<sup>19</sup> Yet in the span of more than four hours from the time they received the tip up to the conduct of the operation, the members of the buy-bust team failed to secure the presence of the required witnesses. Worse, it does not appear that any efforts were made in securing their attendance to begin with.

After the arrest of Ribay and the seizure of the items allegedly in his possession, the buy-bust team proceeded to the barangay hall.<sup>20</sup> It is in the barangay hall where the inventory form was signed by a barangay *kagawad* and a media representative.<sup>21</sup> As admitted by the buy-bust team, the barangay *kagawad* and the media representative were only contacted after the buy-bust operation.<sup>22</sup>

The Court has repeatedly pointed out that the requirement of securing the presence of the required witnesses can easily be complied with considering that a buy-bust operation is, by its nature, a planned activity.<sup>23</sup> In *People v. Gamboa*,<sup>24</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 of R.A. No. 9165.<sup>25</sup>

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<sup>17</sup> TSN dated September 15, 2014, p. 6.

<sup>18</sup> Id.

<sup>19</sup> Id. at 9.

<sup>20</sup> Id. at 17.

<sup>21</sup> Records, p. 9.

<sup>22</sup> TSN dated April 21, 2015, p. 11.

<sup>23</sup> *People v. Labsan*, supra note 6 at 190; *People v. Supat*, G.R. No. 217027, June 6, 2018, 865 SCRA 46, 67; *People v. Casco*, G.R. No. 212819, November 28, 2018, 887 SCRA 322, 335-336.

<sup>24</sup> Supra note 4.

<sup>25</sup> Id. at 569-570.

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>26</sup>

The fact that an elected barangay official and a media representative signed the inventory form cannot cure non-compliance of the requirements mandated. The fact remains that a representative from the DOJ was absent. More importantly, the barangay official and the media representative did not witness the seizure and confiscation of the dangerous drugs. It is at the time of arrest — or at the time of the drugs' seizure and confiscation — that the presence of the three 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>27</sup>

In a long line of cases which includes *People v. Mendoza*,<sup>28</sup> *People v. Reyes*,<sup>29</sup> *People v. Sagana*,<sup>30</sup> *People v. Calibod*,<sup>31</sup> *People v. Tomawis*,<sup>32</sup> *Hedreyda v. People*,<sup>33</sup> *People v. Sta. Cruz*,<sup>34</sup> *Tañamor v. People*,<sup>35</sup> *People v. Arellaga*,<sup>36</sup> and *People v. Casilang*,<sup>37</sup> the Court has consistently emphasized that the presence of all the required witnesses at the time of the confiscation of the dangerous drugs is mandatory 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.<sup>38</sup>

The Court, in *People v. Tomawis*, noted that the practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so — and “calling them in” to the place of inventory to witness the inventory and photographing

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<sup>26</sup> Id. at 570.

<sup>27</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>28</sup> 736 Phil. 749 (2014).

<sup>29</sup> 797 Phil. 671 (2016).

<sup>30</sup> 815 Phil. 356 (2017).

<sup>31</sup> 820 Phil. 1225 (2017).

<sup>32</sup> 830 Phil. 385 (2018).

<sup>33</sup> G.R. No. 243313, November 27, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66031>>.

<sup>34</sup> G.R. No. 244256, November 25, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65946>>.

<sup>35</sup> G.R. No. 228132, March 11, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66109>>.

<sup>36</sup> G.R. No. 231796, August 24, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66340>>.

<sup>37</sup> G.R. No. 242159, February 5, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66075>>.

<sup>38</sup> *People v. Callejo*, G.R. No. 227427, June 6, 2018, 865 SCRA 405, 431.

of the drugs only after the buy-bust operation has already been finished — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.<sup>39</sup>

This unexplained and unjustified failure by the buy-bust team to secure the presence of the required witnesses at the time of the buy-bust operation is fatal to the prosecution's case. As held in similar cases such as *People v. Mendoza*, *People v. Reyes*, *People v. Sagana*, *People v. Calibod*, *People v. Tomawis*, *Hedreyda v. People*, *People v. Sta. Cruz*, *Tañamor v. People*, *People v. Arellaga*, *People v. Casilang*, *People v. Bangalan*,<sup>40</sup> and *People v. Misa*,<sup>41</sup> this failure by the buy-bust team and the prosecution warrants the acquittal of the accused.

Further eroding the identity and integrity of the *corpus delicti*, the buy-bust team failed to immediately conduct the inventory and photographing of the seized items in accordance with law. Section 21 of R.A. No. 9165 requires the buy-bust team to conduct a physical inventory of the seized items and the photographing of the same "immediately after seizure and confiscation" in the presence of the accused and the aforementioned required witnesses.<sup>42</sup> In this regard, the Court, in *People v. Cabezudo*,<sup>43</sup> emphasized that the phrase "immediately after seizure and confiscation" means that the physical inventory and photographing were intended by the law to be made immediately after, or at the place of apprehension. It is only when the same is not practicable that the implementing rules of R.A. No. 9165 allow the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team.

In this case, the inventory and the photographs were not taken in accordance with Section 21, as can be seen from the following excerpts of the testimony of PO3 Orlino L. Del Rosario (PO3 Del Rosario), the poseur-buyer:

[Testimony of PO3 Del Rosario]

Q: A while ago, you mentioned that you took photographs of the accused together with the specimen. May we know on what particular place did you take the photographs of the accused together with the confiscated evidence?

A: At the area, sir.

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<sup>39</sup> Supra note 32, at 409.

<sup>40</sup> G.R. No. 232249, September 3, 2018, 878 SCRA 533.

<sup>41</sup> G.R. No. 236838, October 1, 2018, 881 SCRA 254.

<sup>42</sup> Implementing Rules and Regulations of R.A. No. 9165, Section 21 (a).

<sup>43</sup> G.R. No. 232357, November 28, 2018, 887 SCRA 448.

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Q: May we know at what point in time did Kagawad Felipe and media representative Moreno inscribe their signatures [on the inventory form]?

A: When we brought alias Egay at the barangay hall for the continuation of the Inventory of Evidence, sir.

x x x x

Q: Mr. Witness, after the inventory of evidence was conducted at the barangay hall as stated by you, may we know what happened next?

A: We brought the subject person to our office, sir.<sup>44</sup>

The prosecution offered into evidence two photographs, marked as Exhibit “I” and “I-1,” to prove compliance with the requirements of Section 21. However, these photographs do not coincide with PO3 Del Rosario’s testimony that these were taken during the operation. It should be noted that the buy-bust operation occurred past 9:00 in the evening. However, the photograph marked Exhibit “I” for the prosecution shows Ribay holding four plastic sachets on a white backdrop in a brightly lit room. On the other hand, Exhibit “I-1” shows a close-up of the plastic sachets on top of a table, also in a brightly lit room. When confronted with this inconsistency during cross-examination, PO3 Del Rosario failed to offer an explanation.<sup>45</sup> All things considered, contrary to the testimony of PO3 Del Rosario, the Court finds that the photographs could not have been taken at the place of the buy-bust operation.

There was likewise no reason offered justifying the buy-bust team’s decision in taking Ribay to the barangay hall. In *People v. Quilatan*<sup>46</sup> and *People v. Ilagan*,<sup>47</sup> the Court found it unjustifiable that the buy-bust team ignored the prescribed procedure in conducting the inventory and photographing in a place not allowed under the rules.

Furthermore, there is an unaccounted link in the chain of custody when the seized items moved from the barangay hall to the police station of the buy-bust team. The prosecution offered no testimony as to who took possession of the seized items and how they were handled during this intervening period.

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<sup>44</sup> TSN dated September 15, 2014, pp. 16-19.

<sup>45</sup> TSN dated April 21, 2015, p. 8.

<sup>46</sup> G.R. No. 218107, September 9, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65771>>.

<sup>47</sup> G.R. No. 227021, December 5, 2018, 888 SCRA 496.

In *Mallillin v. People*,<sup>48</sup> *People v. Obmiranis*,<sup>49</sup> *People v. Garcia*,<sup>50</sup> and *Carino v. People*,<sup>51</sup> the Court declared that the failure of the prosecution to offer the testimony of key witnesses to establish a sufficiently complete chain of custody, and the irregularity which characterized the handling of the evidence before the same was finally offered in court, fatally conflict with every proposition relative to the culpability of the accused.

The foregoing breaches of the procedure outlined in Section 21 committed by the buy-bust team, left unacknowledged and unexplained by the prosecution, militate against a finding of guilt beyond a reasonable doubt.<sup>52</sup> Without any justifiable explanation, which must be proven as a fact,<sup>53</sup> the evidence of the *corpus delicti* is unreliable.

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>54</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>55</sup> In the case at bar, the prosecution failed on both counts.

**WHEREFORE**, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated May 16, 2018 of the Court of Appeals Special Fifteenth Decision in C.A.-G.R. CR-HC No. 09482 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant EDGARDO CABRILLAS RIBAY, ALIAS "EGAY" 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 Office of the Director General of the Bureau of Corrections, New Bilibid Prison,

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<sup>48</sup> 576 Phil. 576 (2008).

<sup>49</sup> 594 Phil. 561 (2008).

<sup>50</sup> 599 Phil. 416 (2009).

<sup>51</sup> 600 Phil. 433 (2009).

<sup>52</sup> *People v. Fulinara*, G.R. No. 237975, June 19, 2019, 905 SCRA 488, 513, citing *People v. Sumili*, 753 Phil. 342 (2015).

<sup>53</sup> See *People v. De Guzman*, 630 Phil. 637, 649 (2010).

<sup>54</sup> *People v. Lopez*, supra note, 5.

<sup>55</sup> Implementing Rules and Regulations of R.A. No. 9165, Sec. 21 (a).

Muntinlupa City, for immediate implementation. The said Director General is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Decision 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 *8/5/17*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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(CA-G.R. CR HC No. 09482)

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(Crim. Case Nos. 2012-4034-D-MK  
& 2012-4035-D-MK)

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