



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 29, 2022** which reads as follows:*

“G.R. No. 239775 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus GEORGE REYEG y LEGAZPI a.k.a. “Emil”, accused-appellant.

After a careful review of the records of the case and the issues submitted by the parties, the Court **REVERSES** and **SETS ASIDE** the Decision¹ dated January 12, 2018 of the Court of Appeals (CA), Special Fifteenth Division in CA-G.R. CR-HC No. 08838 which affirmed the Decision² dated September 26, 2016 of the Regional Trial Court of Quezon City, Branch 82 in Criminal Case No. R-QZN-15-03563-CR convicting accused-appellant George Reyeg y Legazpi a.k.a. “Emil” (Reyeg) for violation of Section 5, Article II of Republic Act (R.A.) No. 9165³ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” as amended by R.A. No. 10640.⁴

For a successful prosecution of illegal sale of dangerous drugs, the following elements must be established: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.⁵

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¹ *Rollo*, pp. 2-13. Penned by Associate Justice Ricardo R. Rosario (now a Member of the Court), with Associate Justices Eduardo B. Peralta, Jr. and Maria Elisa Sempio Diy concurring.

² *CA rollo*, pp. 46-58. Penned by Presiding Judge Lyn Eborá-Cacha.

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, approved on June 7, 2002.

⁴ 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; took effect on August 7, 2014 or 15 days after its complete publication on July 23, 2014.

⁵ *People v. Eda*, G.R. No. 220715, August 24, 2016, 801 SCRA 510, 521.

In the same vein, in the prosecution of crimes involving illegal 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 dangerous drug itself.⁶ In order to establish the identity of the dangerous drugs with moral certainty, each of the following links in the chain of custody must be accounted for by the prosecution: (1) the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.⁷

As part of the chain of custody, Section 21,⁸ Article II of R.A. No. 9165, as amended by R.A. No. 10640, imposes upon the members of the buy-bust team to strictly comply with the following requirements: (1) inventory and photographing of the seized items must be conducted immediately after seizure and confiscation at the place of apprehension, or if such is not practicable, at the nearest police station or at the nearest office of the apprehending officer or team;⁹ and (2) the physical inventory and photographing must be done in the presence of the accused or his/her representative or counsel, and two witnesses, namely: an elected public official and a choice

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⁶ See *People v. Barte*, G.R. No. 179749, March 1, 2017, 819 SCRA 10, 20.

⁷ *Jacson v. People*, G.R. No. 199644, June 19, 2019, 904 SCRA 537, 548.

⁸ The relevant portion of the section reads as follows:

SEC. 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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, That 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, finally*, That noncompliance of 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[.]

⁹ *People v. Tomawis*, G.R. No. 228890, April 18, 2018, 862 SCRA 131, 144-145.

between a representative from the media *or* a representative from the National Prosecution Service (NPS), all of whom shall be required to sign the copies of the inventory and be given a copy thereof.¹⁰ Strict compliance with the requirements spelled out in Section 21 is mandatory and any deviation or irregularity in procedure must be satisfactorily explained or justified by the buy-bust team.¹¹

In the instant case, the buy-bust team committed several violations of the procedures laid out in Section 21, Article II of R.A. No. 9165, as amended by R.A. No. 10640.

First, the inventory and photographing of the seized items were conducted in the *barangay* hall of Barangay Central, Quezon City, a place not authorized by law. As previously mentioned, R.A. No. 10640 provides for two alternative places for the conduct of the inventory and photographing of the seized drugs when it cannot be practicably done at the place of apprehension, *i.e.*, the nearest police station or the nearest office of the apprehending officer or team.¹² Clearly, a *barangay* hall is not one of the alternative places where inventory and photographing may be conducted.

As pointed out by the defense, it was peculiar that the police officers, together with Reyeg, headed to the *barangay* hall instead of going straight back to their office, which is also near the area where the alleged apprehension took place in Kalayaan Market.¹³ Notably, Kalayaan Market is only a few meters away from the District Anti-Illegal Drugs Special Operations Task Group (DAID-SOTG), Quezon City located in Camp Karingal.¹⁴

Second, there was no representative from the NPS or a representative of the media during the inventory and photographing of the seized items. In several cases,¹⁵ the Court has stressed the importance of securing the presence of **all** the witnesses required by law during inventory and photographing as this ensures that the buy-bust operation was valid and legitimate and removes any suspicion of switching, planting, or contamination of evidence.

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¹⁰ See *Limbo v. People*, G.R. No. 238299, July 1, 2019, p. 4.

¹¹ See *People v. Que*, G.R. No. 212994, January 31, 2018, 853 SCRA 487.

¹² *People v. Tomawis*, supra note 9, at 146.

¹³ CA rollo, p. 36.

¹⁴ Id.

¹⁵ See *Saban v. People*, G.R. No. 253812, June 28, 2021; *Mascariola v. People*, G.R. No. 251312, October 7, 2020 (Unsigned Resolution); *People v. Detros*, G.R. No. 247273, July 15, 2020 (Unsigned Resolution); *People v. Maganon*, G.R. No. 234040, June 26, 2019; and *Matabilas v. People*, G.R. No. 243615, November 11, 2019.

Here, only one insulating witness, particularly Barangay Chairperson Rosa Magpayo, was present at the *barangay* hall. The Court agrees with the defense that, “[o]ddly, the [buy-bust team] failed to contact any member of the [NPS] when the place where the alleged apprehension transpired was very close in proximity to the Quezon City Prosecutor’s Office. The Hall of Justice was only a few meters away from Kalayaan Market, the Barangay Hall, and Camp Karingal where they could have chosen to conduct the inventory and photograph of the allegedly seized items.”¹⁶

While absence of one of the required witnesses will not automatically render the confiscated items inadmissible in evidence, it is incumbent upon the buy-bust team to acknowledge and explain the lapse in procedure.¹⁷ In *People v. Lim*,¹⁸ the Court *en banc* stressed that it must be alleged and proved that the presence of the witnesses to the physical inventory and photograph of the seized drugs was not secured due to justifiable reasons such as:

(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 presence of a [Department of Justice] or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove 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.¹⁹ (Emphasis omitted)

In the present case, the prosecution failed to provide any valid reason to justify the noncompliance of the buy-bust team. Thus, the buy-bust team’s deviations produced doubts as to the identity and integrity of the *corpus delicti*. R.A. No. 10640 only requires two witnesses and is already less stringent compared to R.A. No. 9165, which required the presence of three witnesses.²⁰ Moreover, a buy-bust operation is a planned activity, thus, police operatives usually have sufficient time to secure the presence of the witnesses.²¹

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¹⁶ CA rollo, p. 36.

¹⁷ *People v. Umipang*, G.R. No. 190321, April 25, 2012, 671 SCRA 324, 354.

¹⁸ G.R. No. 231989, September 4, 2018.

¹⁹ Id. at 13; citation omitted.

²⁰ See *People v. Sood*, G.R. No. 227394, June 6, 2018, 865 SCRA 368, 381.

²¹ *People v. Guerrero*, G.R. No. 228881, February 6, 2019, 892 SCRA 143, 159.

For these reasons, the Court must acquit Reyeg from the criminal charge. Consequently, the Court finds that the issue pertaining to Reyeg's invalid arrest becomes wholly inconsequential as the buy-bust team failed to follow the procedures set forth under the law.

WHEREFORE, the instant appeal is hereby **GRANTED**. The Decision dated January 12, 2018 of the Court of Appeals, Special Fifteenth Division in CA-G.R. CR-HC No. 08838 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **GEORGE REYEG y LEGAZPI a.k.a. "Emil"** is hereby **ACQUITTED** 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 New Bilibid Prison, 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 taken.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *ms/17*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 08838)

The Hon. Presiding Judge
Regional Trial Court, Branch 82
1100 Quezon City
(Crim. Case No. R-QZN-15-03563-CR)

PUBLIC ATTORNEY'S OFFICE
Special and Appealed Cases Service
Counsel for Accused-Appellant
5/F, DOJ Agencies Building
NIA Road cor. East Avenue, Diliman
1101 Quezon City

Mr. George L. Reyeg a.k.a. "Emil" (x)
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General (x)
Bureau of Corrections
1770 Muntinlupa City

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