



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 19, 2022**, which reads as follows:*

**“G.R. No. 243588 (*People of the Philippines v. Misug Pandaca y Pitilan*\*)**. — Challenged in this appeal is the May 28, 2018 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR HC No. 09537 which affirmed accused-appellant Misug Pandaca y Pitilan\*’s (Pandaca) conviction of the crime of Illegal Sale of shabu, a dangerous drug, in a Judgment<sup>2</sup> dated July 17, 2017 rendered by the Regional Trial Court (RTC), Branch 79 of Quezon City in Criminal Case No. R-QZN-14-09270-CR.

**The Antecedents**

Accused-appellant was charged with the crime of Illegal Sale of Dangerous Drugs, in violation of Section 5, Article II of Republic Act No. (RA) 9165,<sup>3</sup> otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” in an Information<sup>4</sup> dated September 11, 2014 which was filed with the Quezon City RTC, docketed as Crim. Case No. R-QZN-14-09270-CR. The accusatory portion thereof reads:

That on or about the 9<sup>th</sup> day of September 2014, in Quezon City, Philippines, the above-named accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did then and there willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction one (1) heat-sealed transparent plastic sachet containing twenty three point five two (23.52) grams of white crystalline substance containing Methamphetamine Hydrochloride, a dangerous drug.

<sup>1</sup> *Rollo*, pp. 2-20. Penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Rodil V. Zalameda (now a Member of this Court) and Renato C. Francisco.

<sup>2</sup> Records, pp. 208-217. Penned by Presiding Judge Nadine Jessica Corazon J. Fama.

<sup>3</sup> 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: June 7, 2002.

<sup>4</sup> Records, pp. 1-2.

\*Pitiilan in RTC Judgment dated July 17, 2017.

A handwritten signature in black ink, located in the bottom right corner of the page.

CONTRARY TO LAW.<sup>5</sup>

Accused-appellant, assisted by counsel, entered a plea of “not guilty” to the offense charged.<sup>6</sup>

During the pre-trial conference, the parties entered into stipulation on Police Chief Inspector Maridel R. Martinez’s (PCI Martinez) testimony which provides, among others, that: (i) she is the forensic chemical officer who examined the specimen that is the subject matter of the instant case; (ii) on September 10, 2014, she received a request for laboratory examination from the arresting officers with an attached one heat-sealed transparent plastic sachet with markings ‘PV-09-09-14’ containing 23.52 grams of white crystalline substance; (iii) upon receipt of the foregoing, she conducted a qualitative examination on the subject evidence. Based on her laboratory analysis, the subject specimen gave positive result to the tests for methamphetamine hydrochloride, a dangerous drug, as indicated in Chemistry Report No. D-450-14<sup>7</sup>; (iv) she sealed the specimen and turned it over to the evidence custodian, Police Officer 1 Junia Tuccad (PO1 Tuccad), for safekeeping; (v) pursuant to a subpoena she received from the trial court for the presentation of said evidence, she retrieved the specimen from PO1 Tuccad; (vi) she can identify the specimen submitted to her for qualitative examination; and (vii) PO 1 Tuccad did not sign the Chain of Custody<sup>8</sup> form.<sup>9</sup>

Thereafter, trial commenced. The prosecution presented as its witnesses Senior Police Officer 1 Eugene Lim (SPO1 Lim), Police Officer 1 Peggy Lynne Vargas (PO1 Vargas), Police Officer 2 Eladio Pamittan (PO2 Pamittan), and PCI Martinez, whose testimony was dispensed with during the pre-trial. The defense, on the other hand, presented accused-appellant as its lone witness.<sup>10</sup>

On April 23, 2015, PO2 Pamittan’s testimony was likewise dispensed with and the parties stipulated, among others, that: (i) he is the investigator of the instant case; (ii) PO1 Vargas turned over to him one heat sealed transparent plastic sachet containing white crystalline substance with markings ‘PV-09-09-14’<sup>11</sup>; (iii) he prepared the following documents – Referral Letter,<sup>12</sup> Joint Affidavit of Arrest,<sup>13</sup> Request for Laboratory Examination;<sup>14</sup> Request for Drug Examination,<sup>15</sup> Request for Physical Examination,<sup>16</sup> Chain of Custody

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<sup>5</sup> *Rollo*, p. 3.

<sup>6</sup> *Id.* at 4; See also records, p. 31.

<sup>7</sup> Records, pp. 9 and 48.

<sup>8</sup> *Id.* at 19.

<sup>9</sup> *Rollo*, p. 4; See also records, pp. 43-44.

<sup>10</sup> *Id.* at 5; See also *CA rollo*, p. 65.

<sup>11</sup> Records, p. 182.

<sup>12</sup> *Id.* at 4-5 and 170-171.

<sup>13</sup> *Id.* at 6-8 and 172-173.

<sup>14</sup> *Id.* at 10 and 174.

<sup>15</sup> *Id.* at 12 and 175.

<sup>16</sup> *Id.* at 13-14 and 176.

Form,<sup>17</sup> Physical Inventory of Pieces of Evidence,<sup>18</sup> and Arrest and Booking Sheet,<sup>19</sup> and (iv) he was the one who delivered the specimen to the crime laboratory.<sup>20</sup>

### Version of the Prosecution

PO1 Vargas testified that on September 9, 2014, she was assigned to the District Anti-Illegal Drugs Unit in Camp Karingal. At around 1:30 p.m., a confidential informant reported to their Chief that a certain Misug was peddling illegal drugs in the area of Lantana and Brooklyn Streets, *Barangay Immaculate Concepcion*, Quezon City. Thus, a buy-bust operation team was formed against one alias Misug. The team was composed of PO1 Vargas herself, their team leader Police Inspector Noel Alemerino, SPO1 Lim, Police Officer 3 Jacinto Caranguian, Police Officer 3 John Neil Dumlao, PO2 Pamittan, and Police Officer 1 Melvin Castillo. PO1 Vargas was designated as the poseur-buyer in their operation, while the rest were tasked as back-up.<sup>21</sup>

Thereafter, the confidential informant contacted their subject, who agreed to meet at 11:00 to 11:30 p.m. of that day in Lantana corner Brooklyn Streets, for the sale of ₱50,000.00 worth of *shabu*. They prepared a Coordination Form<sup>22</sup> and a Pre-Operation Report<sup>23</sup> which they submitted to the Philippine Drug Enforcement Agency for the coordination of their operation. PO1 Vargas also coordinated their operation with the District Tactical Operations Center. Their Chief provided her with two genuine ₱500.00 to be used as buy-bust money,<sup>24</sup> which she incorporated with 98 pieces of boodle<sup>25</sup> money. She placed her initials "PV" on the upper left portion of the buy-bust money bills. Thereafter, the buy-bust operation team headed to the agreed meeting area in Lantana and Brooklyn Streets, *Barangay Immaculate Concepcion*, Quezon City.<sup>26</sup>

Upon arrival at the target area, at around 11:30 p.m. of that day, the confidential informant pointed out accused-appellant to the law enforcers. PO1 Vargas and the confidential informant then approached Pandaca. The confidential informant introduced PO1 Vargas to Pandaca as a friend who would buy the *shabu* worth ₱50,000.00. Accused-appellant then showed her a plastic sachet containing white crystalline substance and asked PO1 Vargas for her payment, so she gave him the buy-bust and boodle money. In exchange, Pandaca handed the plastic sachet to her. At that instance, PO1 Vargas lit a cigarette to signal her team that a drug deal was consummated.

<sup>17</sup> Id. at 19 and 177.

<sup>18</sup> Id. at 20 and 178.

<sup>19</sup> Id. at 21 and 179.

<sup>20</sup> *Rollo*, p. 5; See also records, p. 54.

<sup>21</sup> *CA rollo*, p. 66.

<sup>22</sup> Records, pp. 15 and 181.

<sup>23</sup> Id. at 16 and 180.

<sup>24</sup> Id. at 22.

<sup>25</sup> Id. at 23.

<sup>26</sup> *CA rollo*, pp. 66-67.

Thus, the rest of the team members rushed to the area and apprehended Pandaca. SPO1 Lim recovered the buy-bust and boodle money from the right hand of Pandaca. While still at the area of operation, PO1 Vargas placed her markings (PV-09-09-14) on the plastic sachet that she purchased from accused-appellant.<sup>27</sup>

Thereafter, the team returned to their station. PO1 Vargas kept the purchased drugs in her possession while in transit. Upon arrival at the station, she turned over the plastic sachet to the police investigator on duty, PO2 Pamittan. PO1 Vargas and PO2 Pamittan signed a Chain of Custody Form,<sup>28</sup> evidencing the fact of the turn-over, and then prepared the Inventory Receipt,<sup>29</sup> which was signed by media representative, Alex Mendoza (Mendoza). PO2 Pamittan also took photographs.<sup>30</sup> No elective official or any representative from the National Prosecution Service (NPS) witnessed the inventory because their team leader was not able to contact them.<sup>31</sup> Subsequently, PO2 Pamittan delivered the drug evidence to the crime laboratory for chemistry analysis. In connection with the arrest of the accused, PO1 Vargas signed a Joint Affidavit of Arrest.<sup>32</sup> She identified accused-appellant in open court, as well as the plastic sachet containing white crystalline substance with markings "PV-0909-14," as the one she purchased from Pandaca during the buy-bust operation.<sup>33</sup>

### Version of the Defense

Pandaca denied the allegations against him. He claimed that on September 9, 2014, between 5:00 p.m. to 6:00 p.m., he and his wife, Teresita Pandaca (Teresita), were in Carlos Drugstore along E. Rodriquez corner New York Streets, Quezon City. While thereat, four individuals in civilian attire approached and ordered him to lie face down on the ground, while poking a gun at him.<sup>34</sup>

Out of fear, Teresita screamed and asked the individuals what they were doing to her husband. Likewise, Pandaca asked them why he was being handcuffed. They then told them not to create a commotion, since they intend to only ask him some questions.<sup>35</sup>

Thereafter, while being handcuffed, Pandaca was brought inside a van and made to identify three photographs of Muslim persons, as well as their whereabouts. When he replied that he does not know the persons shown in the photographs, he was slapped and accused of lying. The abductors allegedly

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<sup>27</sup> Id. at 41 and 67.

<sup>28</sup> Records, p. 19.

<sup>29</sup> Id. at 178.

<sup>30</sup> Id. at 182.

<sup>31</sup> TSN, September 5, 2016, p. 8.

<sup>32</sup> Records, pp. 172-173.

<sup>33</sup> CA *rollo*, pp. 67-68.

<sup>34</sup> Id. at 25-26.

<sup>35</sup> Id. at 26.

told him that being a Muslim himself, he should know the persons in the photographs. Thereafter, he was brought to Camp Karingal.<sup>36</sup>

Upon arrival at the camp, the individuals demanded ₱100,000.00 from Pandaca so that no criminal charge will be filed against him. He was advised to call his relatives to ask for help. However, he failed to produce the said amount. In view of this, he was brought to a room where he was made to sign a blank piece of paper and his photographs were taken. Four days after he was arrested, he was brought for inquest.<sup>37</sup>

### **Ruling of the Regional Trial Court**

In its July 17, 2017 Decision,<sup>38</sup> the RTC found Pandaca guilty beyond reasonable of Illegal Sale of Dangerous Drugs, as defined under Sec. 5, Art. II of RA 9165. The dispositive portion of said Decision reads:

**WHEREFORE**, judgment is hereby rendered finding accused **MISUG PANDACA Y PITILAN\***, **GUILTY BEYOND REASONABLE DOUBT** of violation of Section 5, Article II of Republic Act 9165, and he is hereby sentenced to suffer life imprisonment, and to pay a fine of Five hundred thousand pesos (₱500,000.00).

The Branch Clerk of Court is directed to immediately turn over to the Chief of PDEA Crime Laboratory, the subject drugs covered by Chemistry Report No. D-450-14, to be disposed of in strict compliance with the provisions of R.A. 9165 and its implementing rules and regulations on the matter.

The two (2) Five hundred peso bills with serial nos. QD325440 and MS455545 used as buy bust money in this case are confiscated in favor of the government and the Branch Clerk of Court is directed to deposit/remmit it to the General Fund/ Bureau of Treasury.

SO ORDERED.<sup>39</sup>

### **Ruling of the Court of Appeals**

Aggrieved, Pandaca filed an appeal with the CA, which upheld the findings of the RTC. The dispositive portion of the CA's Decision reads:

**WHEREFORE**, the present appeal is hereby **DENIED**. The *Judgment* dated July 17, 2017 of the Regional Trial Court, Branch 79, Quezon City, in Criminal Case No. R-QZN-14-09270-CR, for violation of Section 5, Article II of Republic Act No. 9165, is hereby **AFFIRMED**.

SO ORDERED.<sup>40</sup>

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<sup>36</sup> Id.

<sup>37</sup> Id.

<sup>38</sup> Id. at 40-49.

<sup>39</sup> Id. at 48-49; See also records, pp. 216-217.

<sup>40</sup> *Rollo*, p. 19.

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\*Pitiilan in RTC Judgment dated July 17, 2017.

Thus, Pandaca filed the instant appeal.<sup>41</sup>

### Issue

The issue is whether Pandaca is guilty beyond reasonable doubt of the crime charged.

### Our Ruling

The appeal is meritorious.

The presentation as evidence in court of the very same illegal drug recovered from the accused is a basic requirement for the successful prosecution of Illegal Sale of Dangerous Drugs.<sup>42</sup> The prosecution must establish with moral certainty the identity of the prohibited drug as this is the very *corpus delicti* of the crime.<sup>43</sup> In addition, the prosecution must prove an unbroken chain of custody over the dangerous drugs to remove any doubt as to its identity due to or by reason of switching, “planting” or contamination of evidence.<sup>44</sup> Each link in the chain of custody of the dangerous drugs must be accounted for from the moment the drugs are seized up to their presentation as evidence in court.<sup>45</sup>

The act subject of this case was allegedly committed after the effectivity of RA 10640.<sup>46</sup> In order to preserve the chain of custody of evidence in drugs cases, Sec. 21, Art. II of RA 9165, as amended by RA 10640, spells out the mandatory procedural safeguards in a buy-bust operation 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

<sup>41</sup> Id., Notice of Appeal dated June 19, 2018, p. 116.

<sup>42</sup> *People v. Miranda*, G.R. No. 218126, July 10, 2019.

<sup>43</sup> *Matabilas v. People*, G.R. No. 243615, November 11, 2019.

<sup>44</sup> *People v. Yagao*, G.R. No. 216725, February 18, 2019.

<sup>45</sup> *Matabilas v. People*, supra.

<sup>46</sup> 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. This Court reiterated in *People v. Ramos*, (G.R. No. 243944, March 15, 2021) that R.A. No. 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” R.A. No. 10640 was published on July 23, 2014 in The Philippine Star (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and Manila Bulletin (Vol. 499, No. 23; World News section, p. 6). Thus, R.A. No. 10640 appears to have become effective on August 7, 2014. The act subject of this case allegedly occurred on September 9, 2014, hence, after the effectivity of R.A. No. 10640.

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. (Emphasis supplied)

In *People v. Lim*,<sup>47</sup> this Court explained that RA 10640 now only requires two witnesses to be present during the physical inventory and photographing of the seized items: (1) an elected public official; **and** (2) either a representative from the National Prosecution Service (NPS) **or** the media.<sup>48</sup> Hence, the witnesses required are: (a) *prior* to the amendment of RA 9165 by RA 10640, a representative from the media **and** the Department of Justice (DOJ), **and** any elected public official; or (b) *after* the amendment of RA 9165 by RA 10640, an elected public official **and** a representative of the NPS **or** the media.<sup>49</sup>

Based on the foregoing, since the act subject of this case was allegedly committed after the effectivity of RA 10640, then there are two required witnesses to be present during the physical inventory and photographing of the seized items, namely: (1) an elected public official; and (2) either a representative from the NPS or the media. In the case at bar, the records indicate that only media representative Mendoza<sup>50</sup> was present during the inventory and photography of the seized items. There was no elected public official who witnessed the same.<sup>51</sup>

Moreover, We find that the saving clause as provided by law is inapplicable in the instant case. This Court underscored in *People v. Lim*<sup>52</sup> that the saving clause previously contained in Sec. 21 (a), Art. II of the Implementing Rules and Regulations (IRR) of RA 9165 was essentially incorporated or inserted into the law by RA 10640 which provides that

<sup>47</sup> 839 Phil. 598 (2018).

<sup>48</sup> Id. at 639.

<sup>49</sup> *Mabilas v. People*, supra.

<sup>50</sup> Records, p. 184.

<sup>51</sup> TSN, September 5, 2016, p. 8; See also records, p. 178.

<sup>52</sup> Supra.

“[n]oncompliance 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.”<sup>53</sup> Therefore, for this saving mechanism under RA 10640 to apply, the following conditions must be met: (1) the prosecution must acknowledge or recognize the lapse/s in the prescribed procedure, and then provide justifiable reasons for said lapse/s, **and** (2) the prosecution must show that the integrity and evidentiary value of the seized items have been properly preserved.<sup>54</sup> However, this Court finds that the prosecution herein failed to provide justifiable reasons for said lapses, in particular, the failure to procure the required witnesses during the inventory and photographing of the seized items. The justifiable ground/s for failure to comply with the procedural safeguards mandated by the law must be proven as a fact, as the Court cannot presume what these grounds are or that they even exist.<sup>55</sup>

Moreover, in the absence of the witnesses required by law during the physical inventory and photographing of the seized items, the Court stressed in *People v. Lim*<sup>56</sup> that —

It must be **alleged and proved** that the presence of the three witnesses (now two witnesses under RA 10640) to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s 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 DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code proved 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.**<sup>57</sup> (Emphasis in the original)

The prosecution must provide proof of earnest efforts to secure the attendance of these witnesses. As the Court explained in *People v. Ramos*:<sup>58</sup>

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or **a showing of any genuine and sufficient effort to**

<sup>53</sup> *People v. Lim*, supra at 648.

<sup>54</sup> *People v. Fulinara*, G.R. No. 237975, June 19, 2019.

<sup>55</sup> *People v. Bumanglag*, G.R. No. 228884, August 19, 2019.

<sup>56</sup> Supra.

<sup>57</sup> Id. at 621-622.

<sup>58</sup> 826 Phil. 981 (2018).

**secure the required witnesses under Section 21 of RA 9165 must be adduced.** In *People v. Umipang*, the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for “a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.” Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are 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>59</sup> (Emphasis in the original; underscoring supplied; citation omitted)

In the instant case, the prosecution merely asserted that there was no elective official or any representative from the NPS who witnessed the inventory because their team leader was not able to contact them.<sup>60</sup> This Court finds that the foregoing submission of the police operatives fails to convince Us that earnest efforts were made to secure the attendance of the required witnesses.

“The purpose of the law in requiring the presence of certain witnesses, at the time of the seizure and inventory of the seized items, is to insulate the seizure from any taint of illegitimacy or irregularity.”<sup>61</sup> In *People v. Mendoza*,<sup>62</sup> this Court pronounced that:

Without the insulating presence of the representative from the media or the Department of Justice, or any elected public official during the seizure and marking of the *shabu*, the evils of switching, ‘planting’ or contamination of the evidence that had tainted the buy-busts conducted under the regime of [R.A.] No. 6425, otherwise known as the Dangerous Drugs Act of 1972, might again rear their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the sachets of *shabu* that were evidence herein of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused. Indeed, the insulating presence of such witnesses would have preserved an unbroken chain of custody.<sup>63</sup>

In the instant case, the reliance of the police operatives on the media representative as the lone insulating witness and the apprehending team’s

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<sup>59</sup> Id. at 996-997.

<sup>60</sup> TSN, September 5, 2016, p. 8.

<sup>61</sup> *People v. Dayon*, G.R. No. 229669, November 27, 2019.

<sup>62</sup> 736 Phil. 749 (2014); See also *People v. Lozano*, G.R. No. 227700, August 28, 2019.

<sup>63</sup> Id. at 764.

failure to secure the presence of an elective official,<sup>64</sup> without justifiable reasons and without exerting earnest efforts to do so, effectively ran contrary to the fundamental purpose of the law, which is designed to provide an insulating presence during the inventory and photographing of the seized items, in order to obviate switching, 'planting' or contamination of the evidence. Consequently, this adversely affected the integrity and credibility of the seizure and confiscation of the sachets of *shabu* subject of this case.

**WHEREFORE**, the appeal is **GRANTED**. The May 28, 2018 Decision of the Court of Appeals in CA-G.R. CR HC No. 09537 is **REVERSED** and **SET ASIDE**. Accused-appellant Misug Pandaca y Pitilan\* is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for another lawful cause.

Let a copy of this Resolution be furnished to the Director General, Bureau of Corrections, National Bilibid Prison, Muntinlupa City for immediate implementation. The said Director General is **DIRECTED** to report to this Court the action taken hereon within five days from receipt of this Resolution.

Let an entry of judgment be issued immediately.

**SO ORDERED.**” *Lopez, M., J., designated additional Member per Raffle dated October 4, 2022 vice Zalameda, J., who recused due to prior participation in the CA.*

**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>64</sup> TSN, September 5, 2016, p. 8.

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\*Pitilan in RTC Judgment dated July 17, 2017.

The Solicitor General  
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Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 09537)

The Hon. Presiding Judge  
Regional Trial Court, Branch 79  
1100 Quezon City  
(Crim. Case No. R-QZN-14-09270-CR)

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