



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 9, 2022** which reads as follows:*

“G.R. No. 243790 (People of the Philippines, plaintiff-appellee vs. Joel Real y Yucor alias “Wengweng” and Jonalyn Roldan y Dianton, accused-appellants).

This Appeal¹ seeks to reverse and set aside the September 28, 2018 Decision² of the Court of Appeals, Cebu City (CA) in CA-G.R. CR-HC No. 02628. The CA affirmed the May 16, 2017 Joint Judgment³ of the Regional Trial Court of Dumaguete City, Negros Oriental, Branch 30 (RTC), in Criminal Case No. 2015-23104, finding Joel Real y Yucor alias “Wengweng” (Joel) and Jonalyn Roldan y Dianton (Jonalyn; collectively, *accused-appellants*) guilty beyond reasonable doubt of violation of Section 5 and, in Criminal Case No. 2015-23105, finding Joel guilty beyond reasonable doubt of violation of Sec. 11, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

Antecedents

In an amended information, accused-appellants were charged with illegal sale of dangerous drugs under Sec. 5, Art. II of R.A. No. 9165. In another amended information, Joel was separately charged with illegal possession of dangerous drugs under Sec. 11 of the same provision under R.A. No. 9165. The amended informations read:

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¹ *Rollo*, pp. 12-14.

² *Id.* at 4-11; penned by Associate Justice Edward B. Contreras, with Associate Justices Louis P. Acosta and Dorothy P. Montejo-Gonzaga, concurring.

³ *CA rollo*, pp. 8-25; penned by Judge Rafael Crescencio C. Tan, Jr.

Criminal Case No. 2015-23104

That on August 13, 2015 at around 9:35 x x x in the evening, in Barangay Sac-sac, Bacong, Negros Oriental and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together and mutually helping and aiding one another, not being lawfully authorized by law, did then and there, willfully, unlawfully and knowingly sell, deliver and give away to a police poseur-buyer, one (1) heat-sealed transparent plastic sachet containing a total of 0.01 gram of methamphetamine hydrochloride (shabu), a dangerous drug, in violation of the law.

That accused Joel Real y Yucor was found positive for Methamphetamine [Hydrochloride], a dangerous drug[,] under Chemistry Report No. DT-220-15.

CONTRARY TO LAW.

Criminal Case No. 2015-23105

That on August [13], 2015 at around 9:35 x x x in the evening in Barangay Sac-sac, Bacong, Negros Oriental and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess any dangerous drug and without the corresponding license or prescription, did then and there, willfully, unlawfully and knowingly have in his possession, three (3) [heat-sealed] transparent plastic sachets [containing] Methamphetamine Hydrochloride (shabu) having a total net weight of 0.16 gram, a dangerous drug, in violation of the law.

That accused [Joel Real y Yucor] was found positive for Methamphetamine [Hydrochloride,] a dangerous drug[,] under Chemistry Report No. DT-220-15.

CONTRARY TO LAW.⁴ (underscoring in the original)

During their arraignment, accused-appellants pleaded not guilty to the charges.⁵ Thus, trial on the merits ensued.

Evidence for the Prosecution

The prosecution presented as witnesses Police Officer II Robert John Pama (*PO2 Pama*), Forensic Chemist Police Chief Inspector Josephine Llana (*PCI Llana*), Police Officer II Dexter Banua (*PO2 Banua*), Police Officer I Julius Partosa (*PO1 Partosa*), Kagawad Joel

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⁴ Id. at 8-9.

⁵ *Rollo*, p. 4.

Sario (*Kagawad Sario*), *Kagawad* Sandro Morales (*Kagawad Morales*), Police Senior Inspector Vann Joel Tingson (*PSI Tingson*), Intelligence Officer I Julieta Amatong (*IOI Amatong*), and media representative Lemuel Lagahit (*Lagahit*).⁶

On August 8, 2015, PSI Tingson received a tip from a confidential informant (*informant*) that Joel and his live-in partner, Jonalyn, were engaged in the illegal drug trade. After confirming that Joel was among the top 10 personalities in the drug list issued by the Philippine National Police (*PNP*), PSI Tingson relayed the information to Police Chief Inspector Benedick Poblete (*PCI Poblete*), who decided to conduct a joint anti-illegal drug operation against accused-appellants. PCI Poblete designated PO2 Banua and PO1 Partosa to conduct a surveillance and casing operation on accused-appellants. They conducted the operation on August 10, 2015,⁷ and confirmed the information about accused-appellants' illegal drug activities.⁸

On August 13, 2015,⁹ PCI Poblete instructed the informant to arrange a transaction with accused-appellants. After a while, the informant confirmed that accused-appellants agreed to meet with them at around 9:00 to 10:00 p.m. During the buy-bust team's pre-briefing at around 7:30 p.m., PSI Tingson designated PO2 Banua as the poseur-buyer, PO1 Partosa as the immediate backup officer, and other police officers, including himself, as backup. PO2 Banua received two ₱100.00 bills as buy-bust money. The buy-bust team also coordinated with the Philippine Drug Enforcement Agency (*PDEA*) through IO1 Amatong. After obtaining a coordination control number from the PDEA, the buy-bust team and the informant proceeded to the target area.¹⁰

Upon the buy-bust team's arrival at the site, they positioned themselves and waited for about 20 to 30 minutes before accused-appellants arrived on a motorcycle. The informant approached accused-appellants and introduced PO2 Banua as the interested buyer of *shabu*. Joel asked PO2 Banua for the money and instructed him to give it to Jonalyn. PO2 Banua handed the buy-bust money to Jonalyn, and Joel simultaneously gave him one heat-sealed transparent plastic

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⁶ CA rollo, p. 9.

⁷ Inadvertently stated as August 10, 2017 in the CA Decision (see rollo, p. 5).

⁸ CA rollo, pp. 9-10.

⁹ Inadvertently stated as August 13, 2017 in the CA Decision (see rollo, p. 5) and in the RTC Joint Judgment (see CA rollo, p. 10).

¹⁰ CA rollo, p. 10.

sachet containing white crystalline substance. PO2 Banua examined the contents of the sachet and, convinced that it was *shabu*, executed the pre-arranged signal. PO1 Partosa rushed to the scene to secure the area and prevent accused-appellants from escaping.¹¹

Thereafter, PO2 Banua arrested accused-appellants and confiscated the buy-bust money from Jonalyn. He frisked Joel and recovered three more heat-sealed transparent plastic sachets all containing white crystalline substance and a mobile phone. While still at the crime scene, PO2 Banua marked and signed the sachet he bought from accused-appellants with “JR-JR-BB 08-13-2015,” and the three other sachets and mobile phone found in Joel’s possession with “JR-JR-P1 08-13-2015,” “JR-JR-P2 08-13-2015,” “JR-JR-P3 08-13-2015,” and “JR-JR-P4 08-13-2015,” respectively. Since it was already dark and the area where the transaction had taken place was unsafe, PSI Tingson decided to conduct the inventory at their police station. PO2 Banua remained in sole possession of the items confiscated from accused-appellants.¹²

At the police station, PO2 Banua conducted the inventory of the seized items in the presence of accused-appellants, *Kagawad* Sario, *Kagawad* Morales, Lagahit and the Department of Justice representative Juancho Gallardo (*Gallardo*). Simultaneously, photographs of the conduct of the inventory were taken by PO1 Partosa. The witnesses also signed the receipt/inventory of property seized prepared by PO2 Banua. After the inventory, PO2 Banua placed the seized items inside a brown envelope which he sealed and signed. While still in possession of the brown envelope, PO2 Banua also prepared the requests for laboratory and drug examinations.¹³

Thereafter, PO2 Banua and PO1 Partosa, together with accused-appellants, proceeded to the crime laboratory for the drug and laboratory examinations. PO2 Pama of the crime laboratory received the brown envelope from PO2 Banua at around 1:06 a.m. on August 14, 2015. PO2 Pama kept the brown envelope in his locker which only he had access to. Thereafter, PO2 Pama took urine samples from accused-appellants, marked them accordingly, and kept the same in the refrigerator of the crime laboratory.¹⁴

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¹¹ Id. at 10-11.

¹² Id. at 11-12.

¹³ Id. at 12.

¹⁴ Id.

At around 7:30 a.m. on August 14, 2015, PO2 Pama turned over the brown envelope containing the seized items and the urine samples to PCI Llena. Upon receipt, PCI Llena made her own markings on the items and determined their weight. She conducted a qualitative examination on the contents of the plastic sachets and found all to be positive for methamphetamine hydrochloride or *shabu*, which findings she described in her Chemistry Report No. D-303-15. Moreover, PCI Llena confirmed that Joel tested positive for *shabu*, as indicated in her Chemistry Report No. DT-220-15. After the examination, PCI Llena kept the seized items in the evidence vault of the crime laboratory which only she had access to.¹⁵

Evidence for the Defense

The defense presented accused-appellants as its witnesses who both denied the accusations. They testified that, on August 13, 2015, they bumped into another motorcycle somewhere in Sac-sac, Bacong. They then heard someone shout “*Do not resist. This is a police officer and it is dark. I might shoot you.*” Joel then begged the policeman not to kill them, and to just bring them to the police station if they had done something wrong. Thereafter, they were brought to the police station where they were both charged with illegal sale of *shabu*; and Joel was further charged with illegal possession of *shabu*.¹⁶

Joel claimed that he had just been recently released from detention in another drug case and the police officers wanted to pin him down again. Jonalyn, on the other hand, claimed that the police officers demanded that she undress in front of them, but she refused to do so.¹⁷

The RTC Ruling

In its May 16, 2017 Joint Judgment, the RTC found accused-appellants guilty of the offenses charged. The dispositive portion of the decision reads:

WHEREFORE, in the light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 2015-23104, the accused JOEL REAL y YUCOR and JONALYN ROLDAN y DIANTON are hereby found GUILTY beyond reasonable doubt of the offense

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¹⁵ Id. at 12-13.

¹⁶ *Rollo*, p. 6.

¹⁷ Id. at 6-7.

of illegal sale of 0.01 gram of *shabu* in violation of Section 5, Article II of RA 9165 and are hereby sentenced each to suffer a penalty of life imprisonment and each to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The one (1) heat-sealed transparent plastic sachet with markings "JR-JR-BB 08-13-2015" containing 0.01 gram of *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 2015-23105, the accused JOEL REAL y YUCOR is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 0.16 gram of *shabu* in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The three (3) heat-sealed transparent plastic sachets with markings "JR-JR-P1 08-13-2015" to "JR-JR-P3 08-13-2015," respectively, containing a total net weight of 0.16 gram of *shabu* are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused JOEL REAL y YUCOR and JONALYN ROLDAN y DIANTON shall be credited with the full time during which they have undergone preventive imprisonment, provided they agree voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.¹⁸

The RTC gave credence to the testimonies of the prosecution witnesses that a buy-bust operation occurred and that accused-appellants conspired with one another in selling illegal drugs to PO2 Banua. The RTC also upheld PO2 Banua's testimony that he confiscated three more plastic sachets containing white crystalline substance from Joel. With respect to the chain of custody, the RTC ruled that the apprehending officers successfully preserved the integrity and evidentiary value of the seized evidence through the markings made by PO2 Banua and the inventory he conducted at the police station. The RTC observed that PO2 Banua had uninterrupted possession of the seized evidence from its confiscation until its delivery to the crime laboratory by PO2 Banua himself. Thus, the RTC did not accord credence to accused-appellants' defenses of denial and frame-up which were found to be weak in the absence of ill motive on the part of the police officers.

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¹⁸ CA rollo, pp. 23-24.

Aggrieved, accused-appellants filed an appeal before the CA.

The CA Ruling

In its September 28, 2018 Decision, the CA affirmed accused-appellants' conviction for the offenses charged, to wit:

WHEREFORE, in light of the foregoing, the appeal is DENIED. The assailed RTC Decision is AFFIRMED *in toto*.

SO ORDERED.¹⁹

In upholding accused-appellants' conviction, the CA affirmed the finding of the RTC that the respective requisites for illegal sale and illegal possession of *shabu* were duly proven by the prosecution through the testimony of PO2 Banua. The CA held that accused-appellants' defenses of denial and claim of evidence planting by the police officers could not prevail over the positive and credible testimonies of the prosecution witnesses.

Hence, this appeal.

In its April 1, 2019 Resolution,²⁰ the Court required the parties to submit their respective supplemental briefs, if they so desired. On June 25, 2019, accused-appellants filed their Supplemental Brief.²¹ On the other hand, the appellee, through the Office of the Solicitor General (*OSG*), averred in its Manifestation (In Lieu of Supplemental Brief)²² dated June 10, 2019, that it was adopting its Appellee's Brief²³ dated June 11, 2018, in order to expedite the resolution of the case and to avoid repetition of arguments.

In their Brief for Accused-Appellants²⁴ dated February 2, 2018, accused-appellants asserted that they were framed by the police officers who merely planted the sachets of *shabu* allegedly found in their possession. Accused-appellants argued that their denial of committing the crime imputed to them was not fabricated.

In their supplemental brief, accused-appellants emphasized the doubtful nature of the sachets of *shabu* allegedly confiscated from them. First, there was inconsistency in the testimonies of PO2 Banua

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¹⁹ *Rollo*, p. 10.

²⁰ *Id.* at 22-23.

²¹ *Id.* at 43-65.

²² *Id.* at 39-42.

²³ *CA rollo*, pp. 98-119.

²⁴ *Id.* at 40-66.

and PO1 Partosa as to the pre-arranged signal supposedly executed by PO2 Banua after the consummation of the crime. Second, accused-appellants discredited the conduct of a surveillance prior to the buy-bust operation. Third, the elements of illegal sale of dangerous drugs were not sufficiently established considering PO1 Partosa's failure to witness the actual transaction between accused-appellants and PO2 Banua. Fourth, the representatives called by the police officers only signed the inventory sheet and did not even witness the marking of the seized items or the preparation of the inventory itself.

The OSG, on the other hand, contends that the prosecution adequately established the elements of the crimes charged through the testimonies of the prosecution witnesses. It also reiterated the finding of the RTC that the chain of custody of the seized evidence was sufficiently established.

The Court's Ruling

The appeal is meritorious. Accused-appellants must be acquitted based on reasonable doubt.

In crimes involving dangerous drugs, the prosecution has the burden of proving that the dangerous drugs seized are the very same ones submitted to and identified in court, considering that the drug itself forms an integral part of the *corpus delicti* of the crime.²⁵ To this end, the prosecution must account for each link of the chain of custody from the moment of seizure of the illegal drugs until their presentation in court. Establishing each link in the chain removes doubts in the custody and handling of the seized illicit drugs and creates an imprint of the integrity and evidentiary value of the illicit drugs confiscated from the suspect.

Sec. 21, Art. II of R.A. No. 9165, as amended by R.A. No. 10640,²⁶ the applicable law at the time the incident herein occurred,²⁷ provides the safeguards which the apprehending officers must comply

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²⁵ *People v. De Dios*, G.R. No. 243664, January 22, 2020.

²⁶ 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."

²⁷ The Court noted in *People v. Gutierrez* (see 842 Phil. 681 [2018]) and *Matabilas v. People* (see G.R. No. 243615, November 11, 2019), 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.

with as part of the first link of the chain of custody. Sec. 21 states that the inventory and photography of the seized illegal drugs must be done in the presence of the accused, an elected public official, and a representative from either the media or the National Prosecution Service (NPS):

Section 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 [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. (emphasis supplied)**

The nature of a buy-bust operation entails that the buy-bust team can easily comply with the stringent procedures under Sec. 21. Being a planned activity, the buy-bust team has sufficient time, in most cases, to plan the suspect's entrapment, prepare the necessary documents for coordination, and communicate with the mandatory witnesses in order to secure their presence at the time of seizure of the illicit drugs.

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In this case, the witnesses were merely called in by the police when the buy-bust team was already at the police station.²⁸ *Kagawad* Morales, *Kagawad* Sario, Lagahit, and Gallardo only arrived after PO2 Banua had conducted the inventory of the seized items.²⁹ Thus, when they arrived at the police station, they merely signed the receipt/inventory of property seized already accomplished by PO2 Banua. PSI Tingson admitted this during his direct examination, *viz.*:

Q Did you participate in the conduct of this inventory, Mr. Witness?

A I was present, ma'am.

Q And did you also sign the inventory or receipt that night?

A Yes, ma'am.

Q If that inventory which you said you signed will be shown to you, will you be able to recognize it?

A Yes, ma'am.

Q Showing to you Exhibit "I", what relation does this have with the inventory you said you also signed that night?

A This is the inventory that I signed, ma'am.

Q There is a signature above the name PI Vann Joel Tingson, team leader/supervisor, whose signature is that?

A My signature, ma'am.

Q After the conduct of the inventory, sir, what happened next?

A We called the two (2) barangay officials to sign the inventory, ma'am.

Q And did they arrive?

A Yes, ma'am.

Q And after the witnesses arrived and signed the inventory, what happened next?

A We made a request for Crime Laboratory examination, ma'am.³⁰

Significantly, all the supposed witnesses to the inventory, in their respective testimonies, admitted that they had no personal knowledge as to the source of the items listed in the inventory which they signed; and that the items had already been marked and inventoried when they arrived at the police station.³¹

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²⁸ CA rollo, pp. 51-54.

²⁹ Id.

³⁰ TSN, March 22, 2017, p. 5.

³¹ CA rollo, pp. 51-52 and 54.

During his cross-examination, *Kagawad* Sario testified:

Q Mr. Witness, your only participation was just to witness the inventory?

A Yes, sir.

Q You have no personal knowledge of the incident which led to the arrest of the two (2) accused?

A No.

Q So when you arrived at the Bacong Police Station, both accused were already arrested?

A Yes, sir.

Q They were already there?

A Yes.

Q And the items were already marked?

A Yes, sir.

Q And the inventory were already filled up?

A Yes.

Q So all you had to do was just to compare the items and [sign] the inventory?

A Yes, I read it first.

Q And of course, Mr. Witness, you have no personal knowledge where those items actually came from?

A No.³²

The other *barangay* representative, *Kagawad* Morales, testified during his cross-examination:

Q So Mr. Witness, when you arrived at the Bacong Police Station, both accused were already arrested?

A Yes.

Q There were already markings on the items?

A Yes.

Q The inventory was already filled up?

A Yes.

Q So all you had to do was just to look at the inventory and [sign] the inventory?

A Yes.

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³² TSN, March 21, 2017, pp. 5-6.

Q You have no knowledge of the incident which led to the arrest of the accused?

A No.

Q You were only there just to sign the inventory?

A Yes.³³

Lagahit, the NPS representative, also admitted during his cross-examination that he did not witness the actual conduct of the inventory:

Q Mr. Witness, you were asked to witness the inventory by the Bacong Police Station?

A Yes, sir.

Q And that means that the accused was already arrested at that time?

A Yes, sir.

Q You witnessed the inventory at the Bacong Police Station?

A Yes, sir.

Q And when you arrived at the Bacong Police Station, there were already items placed on top of the table?

A Yes, sir.

Q They were already prepared?

A Yes, sir.

Q The entries in this inventory were already filled up?

A Yes, sir.

Q So all you had to do was just to compare the items and put your signature?

A Yes, sir.

Q Of course, you have no knowledge of the incident which led to the arrest of the accused?

A Yes, sir.³⁴

In *People v. Merando*,³⁵ the police officers who arrested the accused, conducted the marking, inventory, and photography of the seized drugs at the place of arrest and thereafter proceeded to the *barangay* hall to present the receipt of inventory, the seized items, and the accused to the *barangay* officials. The Court acquitted the accused because the mandatory witnesses were not present during the inventory.

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³³ Id. at 9.

³⁴ TSN, March 22, 2017, p. 15.

³⁵ G.R. No. 232620, August 5, 2019, 912 SCRA 88.

In *People v. Cabezudo*,³⁶ the Court also acquitted therein accused since the witnesses were only called in by the police officers to sign the inventory of the seized items. Accordingly, they were not witnesses to the actual conduct of the inventory.

In *People v. Delfino*,³⁷ the accused was acquitted because of the absence of the witnesses when the inventory was conducted. Noting the considerable amount of time that lapsed from the time they received the tip from the informant until the actual buy-bust operation, the Court faulted the buy-bust team for its failure to secure the attendance of the witnesses during the inventory of the seized items.

Similarly, the police officers herein failed to secure the attendance of the necessary witnesses during the actual conduct of the inventory of the seized items despite the considerable amount of time that had passed from the moment they received the tip from the informant. Even if We only consider the period between the pre-briefing conducted by the buy-bust team and the actual conduct of the buy-bust operation, the buy-bust team still had ample time to coordinate with the witnesses given that they were able to prepare all the necessary documents for the operation and to coordinate with the PDEA.

Nonetheless, the Implementing Rules and Regulations of R.A. No. 9165, as amended by R.A. No. 10640, provide for a saving clause in cases where there is a divergence from the procedure outlined under Sec. 21. In order for the saving clause to operate, the prosecution must have first shown a justifiable ground for noncompliance and the earnest efforts they had undertaken to vouch for the preservation of the integrity and evidentiary value of the seized items.³⁸ In other words, they have to prove that a valid and justifiable ground exists to account for the deviation and to show that reasonable efforts were exerted to strictly comply with the requirements under Sec. 21.

In the present case, the prosecution did not offer any justifiable ground for the absence of the insulating witnesses during the conduct of the inventory, let alone acknowledge the deviation from the procedure under Sec. 21. To emphasize, the prosecution has the positive duty to acknowledge divergence from the mandated

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³⁶ 844 Phil. 227 (2018).

³⁷ G.R. No. 243582, July 28, 2020.

³⁸ *People v. Malabanan*, 851 Phil. 1155, 1169 (2019).

procedure and to provide sufficient justification for such.³⁹ Failure to do so compromises the identity of the illegal drugs allegedly seized from the accused.⁴⁰

Considering the failure of the prosecution to discharge its burden of proving the chain of custody of the illegal drugs with unwavering exactitude, accused-appellants' acquittal is warranted.

As a final note, the Court would again remind the law enforcement agencies tasked to implement the provisions of R.A. No. 9165, to strictly comply with Sec. 21 by securing the attendance of the mandatory witnesses during the conduct of the inventory, if practicable. Should there be a deviation, they must thoroughly explain it in their sworn affidavits and during trial, by giving justifiable grounds for such deviations and describing the efforts undertaken to comply with Sec. 21.

WHEREFORE, premises considered, the appeal is **GRANTED**. The September 28, 2018 Decision of the Court of Appeals, Cebu City in CA-G.R. CR-HC No. 02628 is **REVERSED** and **SET ASIDE**. Accused-appellants Joel Real y Yucor alias "Wengweng" and Jonalyn Roldan y Dianton are **ACQUITTED** of the crimes charged against them for failure of the prosecution to prove their guilt beyond reasonable doubt.

The Director General of the Bureau of Corrections, Muntinlupa City and the Superintendent of the Correctional Institution for Women, Mandaluyong City are **ORDERED** to **IMMEDIATELY RELEASE** accused-appellants from detention, unless they are being lawfully held in custody for any other reason, and to **INFORM** the Court of the action hereon within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

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³⁹ Id. at 1170, citing *People v. Año*, 828 Phil. 439, 452 (2018).

⁴⁰ Id. at 1171.

SO ORDERED.”

By authority of the Court:


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

by:

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

Court of Appeals
6000 Cebu City
(CA-G.R. CR-HC No. 02628)

The Hon. Presiding Judge
Regional Trial Court, Branch 30
Dumaguete City, 6200 Negros Oriental
(Crim. Case Nos. 2015-23104 to 23105)

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No. 12-7-1-SC)

Atty. Remar S. Capili
Counsel for Accused-Appellants
2901 Tower 1, Mezza Condominium
cor. G. Araneta, 1100 Quezon City

Philippine Judicial Academy (x)
Supreme Court

Ms. Jonalyn D. Roldan (x)
Accused-Appellant
c/o The Superintendent
Correctional Institution for Women
1550 Mandaluyong City

Judgment Division (x)
Supreme Court

Mr. Joel Y. Real alias “Wengweng” (x)
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Superintendent (x)
Correctional Institution for Women
1550 Mandaluyong City

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

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