



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 23, 2022** which reads as follows:*

“**G.R. No. 250364** (*William Aban Lee v. People of the Philippines*). – Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> dated March 14, 2019 and Resolution<sup>3</sup> dated August 7, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 01253-MIN. The CA affirmed the judgment<sup>4</sup> dated September 26, 2014 of Branch 26, Regional Trial Court (RTC), Medina, Misamis Oriental in Criminal Case No. 1948-M(2012) that found petitioner William Aban Lee (petitioner) guilty beyond reasonable doubt of violation of Section 11,<sup>5</sup> Article II of Republic Act (RA) No. 9165,<sup>6</sup> otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*, as amended.

*The Antecedents*

The instant case stemmed from an Information charging petitioner with violation of Section 11, Article II of RA 9165, the accusatory portion of which states:

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<sup>1</sup> *Rollo*, pp. 10-28.

<sup>2</sup> *Id.* at 34-58; penned by Associate Justice Evalyn M. Arellano-Morales, with Associate Justices Oscar V. Badelles and Florencio M. Mamauag, Jr., concurring.

<sup>3</sup> *Id.* at 30-32; penned by Associate Justice Evalyn M. Arellano-Morales, with Associate Justices Oscar V. Badelles and Florencio M. Mamauag, Jr., concurring.

<sup>4</sup> *Rollo*, p. 39. The entire copy of the RTC Decision was not attached in the *rollo*.

<sup>5</sup> SEC. 11. *Possession of Dangerous Drugs*. — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

<sup>6</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 on June 7, 2002.

That on or about the 29<sup>th</sup> day of August 2012, at around 9:30 o'clock in the morning, more or less, at P-5, Barangay South Poblacion, Medina, Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without lawful authority did then and there, willfully, unlawfully and feloniously have [*sic*] in his possession and control Thirty (30) small heat sealed transparent plastic sachets containing MARIJUANA, a dangerous drug, in an aggregate weight of 19.9 grams, seized by police officers inside the residence of said accused at the aforementioned place, by virtue of Search Warrant No. 08-01-12-2012 issued by Judge Ana Candina N. Casino of Municipal Trial Court, Medina, Misamis Oriental.

CONTRARY TO LAW.<sup>7</sup>

Upon his arraignment, petitioner pleaded not guilty to the charge.<sup>8</sup>

Trial ensued.

*Version of the Prosecution*

The prosecution established that on separate occasions in July 2012 and on August 22, 2012, the members of the Medina Municipal Police Station, headed by Police Inspector Dennis Sabal Ebsolo (P/Insp. Ebsolo), successfully conducted three test buys against petitioner. They were able to buy marijuana from the latter in a house (subject house) located at *Purok 5, Brgy. South Poblacion, Medina, Misamis Oriental*. Consequently, on August 28, 2012, P/Insp. Ebsolo applied for a search warrant which the Municipal Trial Court (MTC) of Medina issued on the same day.<sup>9</sup>

On August 29, 2012, at around 9:00 a.m., Senior Police Officer 2 Rene Rombo (SPO2 Rombo), together with SPO1 Rogaciano Ignalig (SPO1 Ignalig), SPO1 Robinson Neri (SPO1 Neri), and other members of Medina Police Station, went to the subject house to implement the search warrant. On the ground floor of the house, SPO2 Rombo found a bottle containing 25 sachets of suspected marijuana. Likewise, the other searching team headed by SPO1 Neri searched the second floor and found five small sachets of suspected marijuana.<sup>10</sup>

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<sup>7</sup> As culled from the CA Decision; *rollo*, p. 35.

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

<sup>9</sup> *Id.* at 36.

<sup>10</sup> *Id.* at 36-37.

Thereafter, SPO1 Neri marked the sachets containing suspected marijuana with “RBN-1” to “RBN-30” and conducted the inventory in the subject house in the presence of *Barangay* Chairman Paulo Magallanes (Chairman Magallanes) and *Barangay Kagawad* Ricardo Alinabon (*Kagawad* Alinabon). The police officers also took photographs of the seized items during the inventory. They then arrested petitioner and brought him to the police station. Thereafter, the police officers handed the return of the search warrant and the seized items to the Clerk of Court of the MTC of Medina. After the MTC released the 30 sachets containing suspected marijuana, SPO1 Neri delivered them to the crime laboratory; and after a laboratory examination of the seized sachets, their contents tested positive for marijuana, a dangerous drug.<sup>11</sup>

#### *Version of the Defense*

In defense, petitioner denied that he possessed the subject illegal drugs. Instead, he highlighted the fact that the police officers failed to comply with the chain of custody rule and the witness requirement under Section 21, Article II of RA 9165. Likewise, he testified: (1) that he did not own or occupy the subject house; (2) that it was his sister-in-law Teresita Cabiassa who owned it; (3) that he lived in the house of his uncle Rogelio Cabiassa; and (4) that while the search yielded sachets of marijuana, they were not taken from him.<sup>12</sup>

#### *The RTC Ruling*

In the judgment dated September 26, 2014, the RTC found petitioner guilty beyond reasonable doubt for violation of Section 11, Article II of RA 9165 for illegal possession of 19.9 grams of marijuana. The RTC sentenced him to suffer the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to twenty (20) years, as maximum, and to pay a fine of ₱300,000.00.<sup>13</sup>

Undaunted, petitioner filed an appeal.

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<sup>11</sup> *Id.* at 37.

<sup>12</sup> *Id.* at 38.

<sup>13</sup> *Id.* at 39.

*The CA Ruling*

In the assailed Decision,<sup>14</sup> the CA affirmed *in toto* the RTC judgment. It ruled that the prosecution was able to establish petitioner's illegal possession of prohibited drugs;<sup>15</sup> that the integrity of the *corpus delicti* was properly preserved; and that the rule on the chain of custody of seized items was duly complied with.<sup>16</sup>

Hence, the instant petition.<sup>17</sup>

*The Issue*

The issue to be resolved is whether the CA erred in affirming the RTC's conviction of petitioner for violation of Section 11, Article II of Republic Act (RA) No. 9165.

*Our Ruling*

The petition is granted.

In criminal cases, the Constitution<sup>18</sup> guarantees that an accused is presumed innocent until his guilt is proven beyond reasonable doubt.<sup>19</sup> This guilt must be founded on the strength of the prosecution's evidence, not on the weakness of the defense.<sup>20</sup>

“To successfully prosecute a case of illegal possession of dangerous drugs, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.”<sup>21</sup>

“In cases for Illegal Possession of Dangerous Drugs under RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the [offense].”<sup>22</sup>

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<sup>14</sup> *Id.* at 34-58.

<sup>15</sup> *Id.* at 40-48.

<sup>16</sup> *Id.* at 48-57.

<sup>17</sup> *Id.* at 10-28.

<sup>18</sup> Article III, Section 14(2) of the 1987 Constitution.

<sup>19</sup> See *Constantino v. People*, G.R. No. 225696, April 8, 2019.

<sup>20</sup> *Id.*

<sup>21</sup> *People v. Punzalan*, 773 Phil. 72, 90 (2015), citing *People v. Lagahit*, 746 Phil. 896, 907-908 (2014).

<sup>22</sup> *Duarte v. People*, G.R. No. 238971, August 28, 2019.

Failure “to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and, hence, warrants an acquittal.”<sup>23</sup> Accordingly, the prosecution “must be able to account for each link in the chain of custody over the dangerous drug/paraphernalia from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.”<sup>24</sup>

In *Tumabini v. People*,<sup>25</sup> the Court emphasized that Section 21, Article II of RA 9165 is applicable regardless of whether the drugs were seized in a buy-bust operation or by virtue of a search warrant, thus:

Section 21 of R.A. No. 9165 applies whether the drugs were seized either in a buy-bust operation or pursuant to a search warrant. x x x.

x x x x

A plain reading of the law shows that it applies as long as there has been a seizure and confiscation of drugs. There is nothing in the statutory provision which states that it is only applicable when there is a warrantless seizure in a buy-bust operation. Thus, it should be applied in every situation when an apprehending team seizes and confiscates drugs from an accused, whether through a buy-bust operation or through a search warrant.<sup>26</sup>

In order to secure a conviction in drug cases, the following links must be established in the chain of custody of the confiscated item: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized 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 illegal drug from the forensic chemist to the court.<sup>27</sup>

The law further requires that the inventory and photographing be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, and certain required witnesses, namely: (a) if prior to the amendment of RA 9165

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<sup>23</sup> *Grefaldo v. People*, G.R. No. 246362, November 11, 2019.

<sup>24</sup> *People v. Rivera*, G.R. No. 252886, March 15, 2021.

<sup>25</sup> G.R. 224495, February 19, 2020.

<sup>26</sup> *Id.*

<sup>27</sup> *People v. Gayoso*, 808 Phil. 19, 31 (2017); *People v. Sipin*, 833 Phil. 67, 81 (2018).

by RA 10640,<sup>28</sup> a representative each from the media and the Department of Justice (DOJ), and any elected public official; or (b) if after the amendment of RA 9165 by RA 10640, an elected public official and a representative of either the National Prosecution Service or the media.<sup>29</sup>

In the instant case, the illegal drugs were allegedly found in the subject house in 2012, or prior to the amendment of RA 9165 introduced by RA 10640 on August 7, 2014. Thus, the operation is covered by the *three-witness rule* under Section 21 of RA 9165.

Records reveal that the police officers failed to comply with the *three-witness rule*. Specifically, no representatives from the media and the DOJ were present during the alleged inventory and the taking of photographs of the seized items.<sup>30</sup> From this fact alone, the police officers already *deviated* from the requirements outlined in Section 21, Article II of RA 9165, thereby rebutting the presumption of the regularity in the performance of their duties. Clearly, there is already a significant break in the first link in the chain of custody which exposed the seized sachets of marijuana to the possibility of planting, switching, and tampering. Simply stated, there is no evidence that the narcotic substance, which constitutes the *corpus delicti* of the offense charged, exists.

“To stress, the prosecution bears the burden to justify the police officers’ non-compliance based on meritorious grounds.”<sup>31</sup> “[W]hile as a rule, strict compliance with the foregoing requirements is mandatory, a deviation may be allowed only if the following requisites concur: (1) the existence of ‘justifiable grounds’ allowing departure from the rule on strict compliance;”<sup>32</sup> and (2) the preservation of the integrity and the evidentiary value of the seized items by the apprehending team.<sup>33</sup>

In *Ramos v. People*,<sup>34</sup> the Court emphasized that police officers are required not only to state reasons for their non-compliance. In fact, they must also convince the Court that they exerted earnest

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<sup>28</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 July 15, 2014.

<sup>29</sup> *Sayson v. People*, G.R. No. 249289 (Resolution), September 28, 2020; see also *People v. Alconde*, G.R. No. 238117, February 4, 2019.

<sup>30</sup> Only Chairman Magallanes and Kagawad Alinabon, both public officials, served as witnesses. See *rollo*, p. 36.

<sup>31</sup> *People v. Addin*, G.R. No. 223682, October 9, 2019.

<sup>32</sup> *Dizon v. People*, G.R. No. 239399, March 25, 2019.

<sup>33</sup> *Id.*

<sup>34</sup> G.R. No. 233572, July 30, 2018.

efforts to comply with the mandated procedure, and that under the given circumstance, their actions were reasonable.<sup>35</sup> Also, in *People v. Santos*<sup>36</sup> (*Santos*), the Court held that mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.

Moreover, in *Duarte v. People*<sup>37</sup> (*Duarte*), the Court reiterated:

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted *genuine and sufficient* efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the *earnestness of these efforts must be examined on a case-to-case basis*, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances. Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance. x x x<sup>38</sup> (Emphasis supplied)

A judicious scrutiny of the instant case reveals that the police officers failed to exert *genuine and sufficient* efforts to comply with the *three-witness requirement* under Section 21, Article II of RA 9165. It must be highlighted that the police officers conducted three surveillance operations in July 2012 and August 2012 before they applied for the search warrant on August 28, 2012 citing the possible presence of illegal drugs in the subject house where petitioner was allegedly selling marijuana.<sup>39</sup>

That the police officers did not exert *genuine and sufficient* efforts to secure the attendance of the representatives from the media and the DOJ is shown by the fact that they had enough time from the first surveillance operation in July 2012 up to the application for the search warrant on August 28, 2012 to plan the entire operation. For several weeks prior to the implementation of the search warrant, the police officers could have secured the attendance of the required witnesses. To stress, there is a media representative and a DOJ prosecutor assigned in Medina,<sup>40</sup> and yet the police officers failed to contact them and secure their attendance prior to the implementation of the search warrant. Hence, the police officers failed to exert *genuine and sufficient* effort in complying with the witness requirement under Section 21, Article II of RA 9165.

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<sup>35</sup> *Id.*

<sup>36</sup> G.R. No. 243627, November 27, 2019.

<sup>37</sup> G.R. No. 238971, August 28, 2019.

<sup>38</sup> *Id.*

<sup>39</sup> *Rollo*, p. 36.

<sup>40</sup> *Id.*

Notably, a police officer testified that during the date of the implementation of the search warrant, the media representative was unavailable because he could not be contacted.<sup>41</sup> Also, the prosecution explained that a DOJ representative was not available during the implementation of the search warrant because the assigned prosecutor in Medina does not hold office there every day.<sup>42</sup>

The Court is not convinced.

Both the prosecution and the police officers offered flimsy excuses which cannot be considered substantial justifications for the deviation from the *three-witness requirement* under Section 21, Article II of RA 9165. To reiterate, in *Santos* and *Duarte*, the Court held that mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.

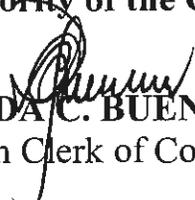
**WHEREFORE**, the petition is **GRANTED**. The Decision dated March 14, 2019 and the Resolution dated August 7, 2019 of the Court of Appeals in CA-G.R. CR No. 01253-MIN are **REVERSED** and **SET ASIDE**. Petitioner William Aban Lee is hereby **ACQUITTED** of violation of Section 11, Article II of Republic Act No. 9165, as amended, for failure of the prosecution to prove his guilt beyond reasonable doubt.

Let a copy of this Resolution be furnished the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

Let entry of judgment be issued.

**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>41</sup> *Id.* at 54-55.

<sup>42</sup> *Id.* at 55.

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Regional Trial Court, Branch 26  
Medina, 9013 Misamis Oriental  
(Crim. Case No. 1948-M [2012])

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