



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 20, 2022, which reads as follows:

“G.R. No. 253570 (People of the Philippines v. Edwin Inyong y Mariño a.k.a “Loloy”). – The Court resolves to NOTE:

- (1) the Letter dated July 28, 2021 of Ricardo S. Zulueta, Corrections Technical Senior Superintendent, New Bilibid Prison Superintendent, Maximum Security Compound, Bureau of Corrections, Muntinlupa City, informing the Court that Resolution dated February 17, 2021 was duly served on accused-appellant on July 27, 2021;
- (2) the Office of the Solicitor General’s Manifestation (in Lieu of Supplemental Brief) dated August 3, 2021, stating that it would no longer file any supplemental brief considering that the facts, issues and applicable laws and jurisprudence have already been thoroughly and exhaustively discussed in the Brief for the Appellee filed on March 22, 2019, with prayer that it be excused from filing a supplemental brief; and
- (3) the Manifestation (In Lieu of Supplemental Brief) dated October 1, 2021, filed by accused-appellant, stating that since all relevant issues have already been exhaustively discussed and argued in the Appellant’s Brief, he no longer intends to file a supplemental brief and adopts the Appellant’s Brief already filed before the Court of Appeals.

This is an appeal from the Decision¹ dated January 23, 2020, of the Court of Appeals (CA) in CA-G.R. CEB CR. HC No. 02987. The CA ruling affirmed

¹ Rollo, pp. 5-24. Penned by Associate Justice Gabriel T. Ingles, with Associate Justices Emily R. Aliño-Geluz and Carlito B. Calpatura, concurring.

the Judgment² dated February 6, 2018, of the Regional Trial Court (RTC), Branch 30, Dumaguete City, in Criminal Case No. 2016-23528.

The Antecedent Facts

Edwin Inyong y Mariño (Inyong) a.k.a “Loloy” was charged in an Amended Information dated April 6, 2016, for violation of Section 11, Article II of Republic Act (R.A.) No. 9165, committed as follows:

That on or about the 29th day of March, 2016, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did then and there willfully, unlawfully and feloniously possess twelve (12) heat[-]sealed transparent plastic sachets containing a total of 9.20 grams of Methamphetamine Hydrochloride, commonly called shabu, a dangerous drug.

That accused has been found positive for the use of Methamphetamine [Hydrochloride], a dangerous drug, as reflected in Chemistry Report No. DT-117-16.

Contrary to Section 11, Article II of R.A. No. 9165.³

Inyong, assisted by counsel, pleaded not guilty during his arraignment. Trial on the merits ensued.

Version of the Prosecution

The prosecution presented as its witnesses Police Officer 3 Michelle Cañete (PO3 Cañete), Police Officer (PO) 1 Joshua Solamillo (PO1 Solamillo), PO1 Jeaneva Gonzales (PO1 Gonzales), PO3 Serito Ongy (PO3 Ongy), Police Chief Inspector Josephine Llana (PCI Llana), media practitioner Juancho Gallarde (Gallarde), Barangay Banilad Kagawad Estrella Mananquil (Kgd. Mananquil), and Department of Justice (DOJ) representative Anthony Chilius Benlot (Benlot).

On March 11 and 12, 2016, PO1 Solamillo conducted surveillance and casing operations to monitor Inyong who was reportedly engaged in illegal drug activities. On March 13, 2016, he was accompanied by a confidential informant to Inyong’s house and was able to purchase *shabu* worth ₱500.00.⁴

On March 22, 2016, PO3 Ongy utilized the findings from the surveillance and casing operations as basis to apply for a search warrant from the RTC of Dumaguete City. On the same day, 2nd Vice-Executive Judge Marie Rose G. Inocando-Paras granted the application and issued Search Warrant No. 18-2016.⁵

² CA *rollo*, pp. 10-20. Penned by Presiding Judge Rafael Crescencio C. Tan, Jr.

³ Id. at 10.

⁴ *Rollo*, p. 7.

⁵ CA *rollo*, p. 11.

On March 29, 2016, at 8:30 p.m., a team of intelligence operatives from the Provincial Anti-Illegal Drugs Special Operations Task Ground (PAIDSOTG) of the Negros Oriental Police Provincial Office (NOPPO) implemented the search warrant. PO1 Solamillo was designated as the searcher/seizing officer, with PO1 Gonzales as his backup officer and photographer.⁶ The team proceeded to Inyong's house at Purok Balaanong Tubig, Sto. Niño, Barangay Banilad, Dumaguete City.

Upon arrival, the police officers asked all occupants of the house to step outside. They approached Inyong and read the contents of the search warrant to him in the presence of Kgd. Mananquil.⁷ PO1 Solamillo and PO1 Gonzales then entered the house and accomplished the search in the presence of Inyong, his wife, and Kgd. Mananquil.⁸

The search resulted in the confiscation of one box with disposable lighters and several cut tin foils, and a white Orocan plastic receptacle containing one (1) big heat-sealed transparent plastic sachet and eleven (11) smaller heat-sealed plastic sachets, all containing a white crystalline substance suspected to be *shabu*.⁹

PO1 Solamillo took custody of the seized items and Inyong was arrested for violation of R.A. No. 9165 and informed of his Constitutional rights. He marked the seized drugs at the house by placing his signature and the markings "EI-SW1-03-29-16" on the one (i) big heat-sealed plastic sachet and "EI-SW2-03-29-16" to "EI-SW12-03-29-16" on the eleven (ii) smaller heat-sealed plastic sachets.¹⁰

An inventory of the seized drugs was thereafter conducted in the presence of Inyong, Kgd. Mananquil, as well as the representatives from the media and DOJ who had arrived by then.¹¹ The Inventory of Property Seized and the Receipt of Property Seized were prepared and signed by PO1 Solamillo as the seizing officer/evidence custodian, PO3 Ongy as the team leader, PO1 Gonzales as the photographer, and all the required witnesses.¹²

After the inventory, PO1 Solamillo placed all the heat-sealed plastic sachets inside a brown evidence envelope, sealed it with tape, and signed it. The police officers thereafter returned to the police station with Inyong for proper booking and disposition of the case. During this entire time, PO1 Solamillo kept the seized items in his custody and upon arrival at the police

⁶ Rollo, p. 8.

⁷ Id.

⁸ CA rollo, p. 62.

⁹ Rollo, p. 8-9.

¹⁰ Id.

¹¹ CA rollo, p. 58.

¹² Rollo, pp. 8-9.

station placed the evidence envelope inside his locker which only he could access.¹³

The following day, PO1 Solamillo and PO3 Ongy went to the court to submit the “Return of Search Warrant with Prayer to Have Custody of Shabu” along with the seized items. On the same morning, the 1st Executive Vice Judge issued an Order granting their prayer to retain custody of the seized drugs for the purpose of subjecting these to a laboratory examination.

PO1 Solamillo received the seized drugs from the court personnel in-charge and personally delivered these to the crime laboratory at 10:00 a.m. of the same day. PO3 Cañete received the drug specimens, verified the contents against the inventory in the Memorandum Request, re-sealed, and likewise placed her signature. She then placed it inside her locker which only she could access. About 30 minutes later, she took the seized drugs and turned them over to chief forensic chemist PCI Llena.

PCI Llena marked the brown envelope “Specimen A D-178-16 JSL” and the twelve (12) heat-sealed plastic sachets as “A-1 D-178-16-JSL” to “A-12 D-178-16-JSL.” The contents of the heat-sealed plastic sachets had an aggregate weight of 9.20 grams and were subjected to a laboratory examination. The Chemistry Report No. DT-117-16 was issued which indicated that the contents tested positive for Methamphetamine Hydrochloride, or *shabu*, a dangerous drug. PCI Llena kept custody of the seized drugs inside a vault which she alone had access while awaiting its submission to the court. On July 21, 2016, upon instruction, she delivered the documents and the seized drugs to the court which was received by Ms. Kathryn Yan-Labi, a legal researcher of Branch 30, RTC of Dumaguete City.¹⁴

Version of the Defense

The defense presented Inyong as its sole witness.

On March 29, 2016, Inyong alleged that he spent the day cooking at his cousin’s house. He returned to his own house at night to shower and change clothes. At around 6:00 p.m., while he was standing at the terrace, eight (8) persons suddenly arrived on motorcycles. He did not recognize any of them and they entered his house. One of them grabbed his hand and dragged him to his room.¹⁵

The police officers searched his room but did not find anything. They then brought him to the basketball court across the street from his house and waited for a barangay official. Around ten minutes later, a barangay official arrived and they read a search warrant to him in his presence. PO1 Solamillo

¹³ Id. at 8.

¹⁴ Id. at 10.

¹⁵ Id. at 15.

and a *tomboy* police officer re-entered the house together with him and the barangay official.¹⁶

He and the barangay official accompanied the police officers during their search but they again could not find anything. The police officers made him sit on a chair and put some items on the table in front of him. A media practitioner arrived a few minutes later and he together with the barangay official were made to sign a document which he did not know about. He was thereafter brought to the police station and was again made to sign a document he was not able to read. He was brought to the provincial hospital for an examination and finally returned to the police station to be detained.¹⁷

The RTC Ruling

The RTC rendered its Judgment¹⁸ convicting Inyong for violation of Section 11, Article II of R.A. No. 9165:

WHEREFORE, in the light of the foregoing, the Court hereby finds the accused Edwin Inyong y Mariño a.k.a. *Loloy* GUILTY beyond reasonable doubt of the offense of illegal possession of 9.20 grams of *shabu* in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twenty (20) years and one (1) day as minimum term to life imprisonment as maximum term and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The twelve (12) heat-sealed transparent plastic sachets with markings “EI-SW1-03-29-16” to “EI-SW12-03-29-16,” respectively, and containing a total of 9.20 grams of Methamphetamine Hydrochloride or *shabu* are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of the sentence, the accused EDWIN INYONG Y MARIÑO a.k.a. “LOLOY” shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.¹⁹

The RTC held that the prosecution was able to establish through testimonial, documentary, and object evidence that Inyong unlawfully possessed illegal drugs in his house. Inyong failed to show any permit or clearance to possess the drugs and even admitted that he was not authorized to do so.²⁰

¹⁶ Id.

¹⁷ Id.

¹⁸ CA *rollo*, pp. 10-20.

¹⁹ Id. at 19-20.

²⁰ Id. at 63.

It further held that the apprehending police officers sufficiently complied with the requirements of the law to preserve the identity and integrity of the seized drugs. It was able to prove every link in the unbroken chain of custody of the seized drugs through the testimonies of the police officers who handled it from the time of its seizure until its presentation in court.²¹

Finally, Inyong's defenses of denial and frame-up are weak and can easily be fabricated. This was unsupported by clear and convincing evidence and, thus cannot overcome the concrete evidence adduced and the positive and credible testimonies of the prosecution's witnesses.²²

Undeterred, Inyong appealed the RTC's decision to the CA.

Inyong, represented by the Public Attorney's Office (PAO), filed a Brief for accused-appellant²³ where he mainly argued that the implementation of the search warrant was unlawful and invalid. The police officers allegedly entered his house and conducted a search without telling him the purpose of their intrusion. The reading of the search warrant in the basketball court happened only after they had already searched his house. He likewise did not understand the contents of the search warrant when it was read to him.²⁴

He therefore claimed that the allegedly seized drugs obtained from the illegal search was inadmissible in evidence for being fruits of a poisonous tree. These could not also be considered to have been discovered under the doctrine of plain view since they retrieved it only after going through all his belongings.²⁵ Ultimately, he should be acquitted for lack of proof of the *corpus delicti* of the crime.²⁶

The State, through the Office of the Solicitor General (OSG), in response filed a Brief for the plaintiff-appellee.²⁷ It asserted that a valid search warrant was issued which the police officers implemented in accordance with the court's directive.²⁸ The identity and integrity of the seized drugs were also sufficiently preserved as shown by the handling police officers' cumulative testimonies and the documentary and object evidence adduced.²⁹

The CA Ruling

The CA rendered its assailed Decision³⁰ affirming Inyong's conviction:

²¹ Id. at 63-64.
²² Id. at 64.
²³ Id. at 32-54.
²⁴ Id. at 48-49.
²⁵ Id. at 51-52.
²⁶ Id. at 49-51.
²⁷ Id. at 76-103.
²⁸ Id. at 92-94.
²⁹ Id. at 99-100.
³⁰ *Rollo*, pp. 5-24.

WHEREFORE, the appeal is **DISMISSED**. The Judgment dated 6 February 2018, of the Regional Trial Court, 7th Judicial Region, Br. 30, Dumaguete City, in Crim. Case No. 2016-23528, convicting accused-appellant Edwin Inyong y Mariño a.k.a. “Loloy”[,] of illegal possession of dangerous drugs in violation of Section 11, Article II of Republic Act No. 9165 is **AFFIRMED**.

SO ORDERED.³¹

The CA held that the search warrant was legally implemented as supported by the evidence on record. It cited Kgd. Mananquil’s testimony which proved that the search warrant was implemented only after it was read and explained to Inyong.³² It therefore held that the seized drugs and other evidence obtained from the search were admissible in evidence and sufficient to support Inyong’s conviction.³³ It further held that the police officers sufficiently complied with the strict procedure on the proper handling and custody of the seized drugs as the prosecution proved every link in its unbroken chain of custody.³⁴

Aggrieved, Inyong filed the instant appeal before the Court.³⁵

This Court issued its Resolution dated February 17, 2021,³⁶ acting on the appeal and ordering the parties to file their respective supplemental briefs.

Inyong, through the PAO, filed a Manifestation³⁷ stating that he would no longer file a supplemental brief and would adopt the arguments from his Appellant’s Brief.

The State, through the OSG, likewise filed a Manifestation³⁸ stating that it would no longer file a supplemental brief considering that it had thoroughly and exhaustively discussed all the facts, issues, and applicable laws and jurisprudence in its Brief for the Appellee.

Issue

The issue for resolution in this case is whether or not Inyong is guilty beyond reasonable doubt for violation of Section 11, Article II of R.A. No. 9165.

Ruling of the Court

The appeal is granted.

³¹ Id. at 24.

³² Id. at 15-18.

³³ Id. at 19-20.

³⁴ Id. at 20-23.

³⁵ Id. at 25-26.

³⁶ Id. at 33-34.

³⁷ Id. at 45-46.

³⁸ Id. at 37-39.

At the outset, it bears emphasis that an appeal opens the entire case for review. The reviewing court has the duty and power to take cognizance of and correct errors in the appealed judgment, whether assigned or unassigned. The appeal “confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.”³⁹

In this case, Inyong was charged with illegal possession of dangerous drugs defined and penalized under Section 11, Article II of R.A. No. 9165, as amended by R.A. No. 10640. The illegal drugs were discovered and seized after a search of his house conducted by police officers in the implementation of Search Warrant No. 18-2016.⁴⁰

It is significant to note that the Court in *Tumabini v. People*⁴¹ established that the mandatory requirements on the chain of custody of seized drugs apply whether the seizure is made on account of a buy-bust operation or the implementation of a search warrant. It highlighted that a plain reading of the law shows that it should be applied as long as there is a seizure and confiscation of drugs. It was elucidated:

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. Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of the seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition. x 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.

A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis*. It is expressed in the maxim, *index animi sermo*,

³⁹ *People v. Libre*, G.R. No. 235980, August 20, 2018.

⁴⁰ *Rollo*, p. 7.

⁴¹ G.R. No. 224495, February 19, 2020.

or “speech is the index of intention.” Furthermore, there is the maxim *verba legis non est recedendum*, or “from the words of a statute there should be no departure.”

Based on *verba legis*, Sec. 21 of R.A. No. 9165, as amended, operates as long as there is seizure and confiscation of drugs. It does not distinguish between warrantless seizure of the drugs in a buy-bust operation and in the implementation of a search warrant. **Accordingly, in every situation where there is a seizure and confiscation of drugs, the presence of the accused, or his/her representative or counsel, a representative from the media and the DOJ, and any elected public official, is required during the physical inventory and taking of photographs of the seized drugs,** because they shall be required to sign the copies of the inventory and be given a copy thereof. (Emphasis and underscoring supplied)⁴²

The Court is aware that Section 8, Rule 126 of the Revised Rules of Criminal Procedure⁴³ requires only two witnesses to be present in the implementation of a search warrant. However, it was clarified in *Tumabini* that this procedural provision will not apply in searches and seizures of dangerous drugs. We explained that this is a general provision on the implementation of search warrants which must yield to the special and substantive provisions of R.A. No. 9165 and its Implementing Rules and Regulations:

Nevertheless, Sec. 8 of Rule 126 is a general provision with respect to the implementation of search warrants in all kinds of cases, such as for illegal firearms, infringing goods, or incriminating documents. On the other hand, Sec. 21 of R.A. No. 9165, as amended, and as implemented by its Implementing Rules and Regulations (IRR), is a special provision that applies specifically to the seizure and confiscation of dangerous drugs. In case of conflict between a general law and a special law, the latter must prevail regardless of the dates of their enactment. Thus, it has been held that — [t]he fact that one law is special and the other general creates a presumption that the special act is to be considered as remaining an exception of the general act, one as a general law of the land and the other as the law of the particular case.

Further, Sec. 8, Rule 126 of the Revised Rules of Criminal Procedure is not even a substantive law; rather, it is a mere remedial provision. In determining whether a rule prescribed by the Supreme Court, for the practice and procedure of the lower courts, abridges, enlarges, or modifies any substantive right, the test is whether the rule really regulates procedure, that is, the judicial process for enforcing rights and duties recognized by substantive law and for justly administering remedy and redress for a disregard or infraction of them. If the rule takes away a vested right, it is not procedural. If the rule creates a right such as the right to appeal, it may be classified as a substantive matter; but if it operates as a means of implementing an existing right then the rule deals merely with procedure.

⁴² Id.

⁴³ REVISED RULES OF CRIMINAL PROCEDURE, Rule 126, Section 8, provides:

Section 8. Search of house, room, or premise to be made in presence of two witnesses. — No search of a house, room, or any other premise shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality.

Here, Congress enacted Sec. 21 of R.A. No. 9165 to ensure the identity and integrity of the seized drugs and to prevent tampering thereof. As stated in *People v. Acub*, in all prosecutions for violations of R.A. No. 9165, the corpus delicti is the dangerous drug itself. Its existence is essential to a judgment of conviction. Hence, the identity of the dangerous drug must be clearly established. Narcotic substances are not readily identifiable. To determine their composition and nature, they must undergo scientific testing and analysis. Narcotic substances are also highly susceptible to alteration, tampering, or contamination. It is imperative, therefore, that the drugs allegedly seized from the accused are the very same objects tested in the laboratory and offered in court as evidence. The chain of custody, as a method of authentication, ensures that unnecessary doubts involving the identity of seized drugs are removed.

Verily, in the special cases of seizure of drugs, the statutory provision of Sec. 21 of R.A. No. 9165 should apply and must take precedence in contrast to the general remedial provision of Sec. 8, Rule 126 of the Revised Rules of Criminal Procedure.

Hence, in the seizure of dangerous drugs pursuant to the implementation of a search warrant, police officers must comply with the requirements under Section 21, Article II of R.A. No. 9165, as amended, which provides:

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.

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: Provided, That when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued immediately upon completion of the said examination and certification; x x x

The law explicitly mandates that the physical inventory and photographing of the seized drugs should be witnessed by: (1) the accused or the person/s from whom the items were seized, or his/her representative; (2) an elected public official; and (3) a representative of the National Prosecution Service (NPS) or media.⁴⁴

This witness requirement under the law is mandatory. Non-compliance will cast serious doubt on the identity and integrity of the *corpus delicti* of the crime and shall be sufficient to justify the accused's acquittal.⁴⁵

It is further stressed that the marking of the seized drugs is an indispensable and integral part of the inventory stage.⁴⁶ It should therefore be accomplished in the presence of the accused and all the required witnesses under the law. It was explained in *People v. Castillo*⁴⁷ that third-party witnesses must be present during the marking to ensure that the drugs inventoried, examined, and thereafter presented in court are the same drugs obtained from the accused. The absence of such witnesses during the marking stage creates reasonable doubt on the origin and identity of the seized drugs and, ultimately, on the accused's guilt:

Such significance impels the presence of third-party witnesses during the actual seizure and marking, which must immediately follow seizure. **The presence of third-party witnesses during seizure and marking ensures that whatever items are subsequently inventoried, photographed, examined, and presented in court are the same substances that were initially obtained from the accused.**

x x x x

Here, **the absence of witnesses during seizure and marking casts reasonable doubt on the actual origin and identity of the drugs introduced in evidence as those allegedly seized from accused-appellant.** Ultimately, **this same absence casts reasonable doubt on accused-appellant's guilt for the offenses with which he is charged.**

The prosecution maintains that after the alleged confiscation of items from accused-appellant, the buy-bust team went inside their vehicle parked

⁴⁴ *People v. Que*, 824 Phil. 882, 906 (2018).

⁴⁵ *Id.* at 898-899.

⁴⁶ *People v. Sarabia*, G.R. No. 243190, August 28, 2019.

⁴⁷ G.R. No. 238339, August 7, 2019.

near the place of arrest, and there did the marking. This claim alone acknowledges the ostensibly clandestine conduct of the police officers. Moreover, there is no independent guarantee on the integrity of whatever it was that the police officers did next. Other than them and their self-serving assurances, no other person could attest to how they conducted themselves at the place of the arrest and, ultimately, in the isolation of their own vehicle.

It was also only at the police station that Limbo, the Department of Justice representative, and Barangay Chair Latayan were called in to witness the inventory and photographing. It is clear that the required witnesses themselves had no personal knowledge of the supposed sale and subsequent apprehension, search, seizure, and marking.

Having third-party witnesses present only during the subsequent physical inventory and photographing renders the whole requirement of their presence futile. Securing third-party witnesses provides a layer of protection to the integrity of the items seized and forecloses any opportunity for the planting of dangerous drugs. Having their presence only at a very late stage reduces them to passive automatons, utilized merely to lend hollow legitimacy by belatedly affixing signatures on final inventory documents despite lacking authentic knowledge on the items confronting them. They are then reduced to rubberstamps, oblivious to how the dangers sought to be avoided by their presence may have already transpired.⁴⁸ (Emphasis and underscoring supplied)

Accordingly, the accused in *People v. Sarabia*⁴⁹ was acquitted on account of the police officers' failure to ensure the presence of the required witnesses during the marking stage.

Applying the foregoing to the instant case, we find that the prosecution failed to prove sufficient compliance with the mandatory third-party witness requirement under Section 21, Article II of R.A. No. 9165.

The established factual findings in this case reveal that the required witnesses from the media and the DOJ were absent during Inyong's warrantless arrest, the search of his house, and the seizure and marking of the dangerous drugs allegedly retrieved. As the RTC concluded, PO1 Solamillo had marked all the seized drugs and items already in the house even before media practitioner Gallarde and DOJ representative Benlot arrived. It cannot be denied that these two (2) witnesses followed belatedly and arrived during the inventory stage after the marking was already finished:⁵⁰

At the house of the accused, PO1 Solamillo marked all of the items he seized and confiscated during the search as follows: with the initials "EI-SW1-03-29-16" for the one (1) big heat-sealed transparent plastic sachet containing white crystalline substance and with the initials "EI-SW2-03-29-16" to "EI-SW12-03-29-16" for the eleven (11) other heat-sealed transparent plastic sachets, respectively, each containing white crystalline substance. PO1 Solamillo also marked all of the other items that he seized and

⁴⁸ Id.

⁴⁹ Supra note 46.

⁵⁰ CA rollo, p. 58.

confiscated during the search. PO1 Solamillo also placed his signature on each of the items he marked. The initials "EI" refer to the name of the accused Edwin Inyong. The letters "SW" refer to the implementation of a search warrant while the number immediately following differentiates one sachet from the other. The series of numbers thereafter refer to the date of the incident.

While still at the house of the accused, PO1 Solamillo conducted an inventory of all the seized and confiscated items in the presence of the accused Edwin Inyong. The inventory was also witnessed by Kagawad Estrella who was already there; as well as media practitioner Juancho Gallarde and DOJ representative Anthony Chilius Benlot, who were called and had arrived by then. PO1 Solamillo then prepared an Inventory of Property Seized and a Receipt of Property Seized which he signed as the seizing officer/evidence custodian. These documents were also signed by the witnesses to the inventory. Likewise, both documents were signed by PO3 Ongy as the team leader of the operation. PO1 Gonzales, who took photographs during the inventory, also signed both documents as the photographer.⁵¹ (Emphasis and underscoring supplied)

The RTC concluded that PO1 Solamillo seized, took custody, and marked the dangerous drugs all by himself at the house of the accused-appellant. It was only after the marking stage when he prepared the inventory that Gallarde and Benlot arrived to serve as the required witnesses.⁵²

This is corroborated by the summary of Gallarde's testimony which made no mention that he witnessed the actual seizure and marking of the dangerous drugs. It was alleged that he arrived only to witness the inventory and made sure that the same items were listed in the inventory sheet in which he signed.⁵³

The same holds for Benlot's testimony which did not state that he witnessed the seizure and marking of the dangerous drugs. It was only alleged that when he arrived at Inyong's house, he saw the seized items already placed on the table and he checked whether these same items were included in the inventory sheet in which he also signed.⁵⁴

Consequently, not all of the required witnesses were present during the critical marking stage of the dangerous drugs. Regrettably, Gallarde and Benlot arrived too late to sufficiently fulfill their functions to provide the safeguards intended under the law. As described in *Castillo*, their late arrival only at the inventory stage rendered their presence futile since they became merely "rubberstamps, oblivious to how the dangers sought to be avoided by their presence may have already transpired."

While non-compliance with Section 21, Article II of R.A. No. 9165 does not *ipso facto* invalidate the seizure of the dangerous drugs, the Court cannot

⁵¹ Id.

⁵² Id. at 63.

⁵³ Id. at 42.

⁵⁴ Id. at 44.

excuse the lapses in this case since the prosecution failed to prove that (1) there is a justifiable ground for non-compliance; and (2) the integrity and evidentiary value of the seized items are properly preserved.⁵⁵ It is well-settled that such justifiable ground must be proven as a fact in accordance with the Rules of Court.⁵⁶

The prosecution's failure to establish compliance with Section 21, Article II of R.A. No. 9165 is fatal to its cause. This has resulted in its concomitant failure to prove the *corpus delicti* of the crime beyond reasonable doubt and warrants Inyong's acquittal.

WHEREFORE, premises considered, the Decision dated January 23, 2020 of the Court of Appeals in CA-G.R. CEB CR. HC No. 02987 affirming the Judgment dated February 6, 2018 of the Regional Trial Court, Branch 30, Dumaguete City, in Criminal Case No. 2016-23528, is **REVERSED** and **SET ASIDE**. Accused-appellant Edwin Inyong y Mariño a.k.a "Loloy" is **ACQUITTED** for failure to prove his guilt beyond reasonable doubt.

He is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is confined for any other lawful cause. Let entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections – New Bilibid Prison, Muntinlupa City for immediate implementation. The Director General is **ORDERED** to **REPORT** to this Court within five (5) working days from receipt of this Resolution the action taken.

SO ORDERED."

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
GER
9/25/22

Regional Special & Appealed Cases Unit
PUBLIC ATTORNEY'S OFFICE
3rd Floor, Taft Commercial Center
Metro Colon, Carpark, Osmeña Boulevard
Brgy. Kalubihan, 6000 Cebu City

COURT OF APPEALS
CA-G.R. CEB CR-HC No. 02987
6000 Cebu City

⁵⁵ *People v. Fulgado*, G.R. No. 246193, February 19, 2020.
⁵⁶ *People v. Baptista*, G.R. No. 225783, August 20, 2018.

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
1229 Legaspi Village, Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 30, Dumaguete City
6200 Negros Oriental
(Crim. Case No. 2016-23528)

The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Superintendent
BUREAU OF CORRECTIONS
New Bilibid Prisons
1770 Muntinlupa City

Mr. Edwin "Loloy" Inyong y Mariño
c/o The Superintendent
BUREAU OF CORRECTIONS
New Bilibid Prisons
1770 Muntinlupa City

PGen. Rodolfo S. Azurin, Jr.
Chief, PHILIPPINE NATIONAL POLICE
PNP, National Headquarters
Camp Crame, Quezon City

The Director General
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