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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **July 1, 2020**, which reads as follows:

“G.R. No. 218921 – (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. ALICE PACA y TAÑAG,¹ *accused-appellant*). – This is an appeal from the Decision² of the Court of Appeals (CA) dated November 27, 2014, in CA-G.R. CR. HC. No. 01477, which affirmed *in toto* the Judgment³ dated February 22, 2012 of the Regional Trial Court (RTC), 7th Judicial Region, Branch 57, Cebu City, in Criminal Case No. CBU-85177, finding appellant Alice Paca y Tañag guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The facts are as follows:

In an Information dated January 23, 2009, appellant was charged with violation of Section 5, Article II of R.A. No. 9165 as follows:

That on or about the 21st day of January 2009, at about 3:25 o'clock in the afternoon, more or less, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping with Darwin Garcia who is still at large, and who will be separately prosecuted as soon as apprehended, with deliberate intent, and without authority of law, did then and there sell, deliver or give away to a poseur buyer one (1) pc. small size heat sealed transparent plastic pack of white crystalline substance, weighing 0.03 gram, locally known as “*shabu*”, containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁴

¹ Also spelled as Tanag in the RTC Judgment, CA *rollo*, pp. 29-33.

² Penned by Associate Justice Gabriel T. Ingles, with Associate Justices Pamela Ann Abella Maxino and Renato C. Francisco concurring, *rollo*, pp. 3-17.

³ Rendered by Judge Enriqueta Loquillano-Belardino, CA *rollo*, pp. 29-33.

⁴ *Rollo*, p. 3.

When arraigned, appellant pleaded not guilty to the charge. Trial on the merits ensued.

Version of the Prosecution

On January 21, 2009, the Regional Office VII of the Philippine Drug Enforcement Agency (PDEA) in Cebu City received information that a certain Darwin Garcia approached a confidential informant to look for a buyer of “shabu” in exchange for a commission.⁵ A team was then created to conduct a buy-bust operation against Garcia. FO3 Rayford A. Yap marked a ₱500.00 bill with his initials “RY”, which he turned over to PO3 George B. Cansancio. The informant contacted Garcia through text messages, and the team proceeded to the target area. When they arrived, Garcia and appellant approached. Garcia demanded the money and PO3 Cansancio gave him the pre-marked ₱500.00 bill. Appellant then handed a plastic pack to Garcia, who turned it over to PO3 Cansancio.⁶

PO3 Cansancio signified that the transaction had been consummated by dropping a face towel. Garcia noticed the approaching PDEA officers and escaped through the backdoor of a house, bringing with him the buy-bust money. Appellant, however, was caught and arrested. The officers explained that inventory of the seized item could not be performed at the scene of the crime because several persons had gathered, and some even threw stones at them. PO3 Cansancio brought the seized item to the office.⁷ The seized item was marked “ATP-DG-01-21-09” by PO3 Cansancio. The inventory was witnessed by barangay councilor Elsa Iso and media representative Virgilio Salde, Jr. Photographs were also taken showing the witnesses, the appellant and PDEA officer Jess Tabanao.⁸ PO3 Cansancio delivered the seized item to the Philippine National Police (PNP) Crime Laboratory in Cebu City. The specimen submitted was positive for methamphetamine hydrochloride, a dangerous drug.⁹

Version of the Defense

Appellant vehemently denied the accusation against her. She averred that on January 21, 2009, she was watching television inside her house when she noticed people running. She peeped through the door and the police officers asked her about the whereabouts of Darwin Garcia. After giving a negative answer, she locked the door. FO3 Yap was about to hit her with his firearm. She was subsequently handcuffed and brought to the station of the

⁵ CA rollo, pp. 29-30.

⁶ Id. at 30.

⁷ Id. at 31.

⁸ Id. at 52.

⁹ Id. at 30-31.

officers. They placed her in a detention cell and was later investigated. Appellant learned that she was charged of selling dangerous drugs.¹⁰

The RTC Ruling

The RTC rendered Judgment finding that the prosecution was able to prove appellant's guilt beyond reasonable doubt, to wit:

WHEREFORE, in view of the foregoing, the Court finds accused ALICE PACAYTANAG guilty beyond reasonable doubt of the crime of Violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer the penalty of life imprisonment and a fine of P500,000.00.

SO ORDERED.¹¹

The CA Ruling

WHEREFORE, the appeal is DISMISSED. The Judgment of the Regional Trial Court, 7th Judicial Region, Branch 57, Cebu City, in Crim. Case No. CBU-85177 is hereby AFFIRMED *in toto*.

SO ORDERED.¹²

In so ruling, the CA explained that conspiracy was proven since on the day of the buy-bust operation, appellant arrived together with Garcia, an individual suspected of being involved in illegal drug activities. At the time of the transaction, appellant was just beside Garcia. When Garcia received the money from PO3 Cansancio, appellant handed him the plastic pack of *shabu*. The CA concluded that such actuations were clear manifestations of a common purpose, concerted action, and a community of interest in consummating the illegal sale of dangerous drugs. Moreover, the CA ruled that the buy-bust team had successfully complied with Section 21, paragraph 1, Article II of R.A. No. 9165.¹³

Our Ruling

The appeal is meritorious.

Section 21, Article II of R.A. No. 9165 outlines the procedure which the police officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.¹⁴ Under the said section, prior

¹⁰ Id. at 77-78.

¹¹ Id. at 33.

¹² Id. at 89.

¹³ Id. at 82-88.

¹⁴ *People v. Sumili*, 753 Phil. 342, 349-350 (2015).

to its amendment by R.A. No. 10640,¹⁵ **the apprehending team shall, among others, immediately after seizure and confiscation conduct a physical inventory and photograph the seized items** in the presence of the accused or the person from whom the items were seized, or his representative or counsel, a representative from the media and the Department of Justice, and any elected public official who shall be required to sign the copies of the inventory and be given a copy of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.¹⁶

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21, Article II of R.A. No. 9165 may not always be possible.¹⁷ In fact, the Implementing Rules and Regulations (IRR) of R.A. No. 9165 – which is now crystallized into statutory law with the passage of R.A. No. 10640 – provides that the said inventory and photography may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that non-compliance with the requirements of Section 21, Article II of RA No. 9165 – under justifiable grounds – will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team.¹⁸

In other words, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21, Article II of RA No. 9165 and its IRR does not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.¹⁹ In *People v. Almorfe*,²⁰ **the Court explained that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had nonetheless been preserved.**²¹

In this case, the buy-bust team that arrested appellant deviated from the prescribed procedure under R.A. No. 9165. They failed to conduct the

¹⁵ 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.

¹⁶ See Section 21 (1) and (2), Article II of Republic Act No. 9165.

¹⁷ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

¹⁸ See Section 21 (a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165. See also *People v. Ceralde*, G.R. No. 228894, August 7, 2017.

¹⁹ See *People v. Goco*, G.R. No. 219584, October 17, 2016, 806 SCRA 240, 252.

²⁰ 631 Phil. 51 (2010).

²¹ *Id.* at 60.

physical inventory and photograph of the seized plastic pack immediately after its seizure and confiscation at the scene of the crime. FO3 Yap's statement that they left the area because they were being stoned is quite incredible. Likewise, we note that the witnesses required under R.A. No. 9165 were not physically present at the time of apprehension. This is a requirement that can be easily complied with by the buy-bust team, considering that the buy-bust operation is, by its nature, a planned activity.²² In this situation, the buy-bust team had enough time and opportunity to bring with them the required witnesses.

The recent case of *People v. Musor*²³ essentially involves a similar set of facts, wherein the police conducted the marking and inventory in the police station and not immediately in the place of the buy-bust because the place of the buy-bust was allegedly dangerous as the venue "was dark and there were persons drinking in the area." In the aforesaid case, the Court found the police's explanation "hollow and not worthy of belief," explaining that the IRR of R.A. No. 9165 allows the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team *only* when holding the same is not practicable in the place of the buy-bust. This means that **the three required witnesses should already be physically present at the time of the conduct of the physical inventory of the seized items which, as aforementioned, must be immediately done at the place of seizure and confiscation.**

Certainly, the prosecution bears the burden of proof to show valid cause for non-compliance with the procedure laid down in Section 21 of R.A. No. 9165, as amended. It has the positive duty to demonstrate observance thereto in such a way that, during the proceedings before the trial court, it must initiate in acknowledging and justifying any perceived deviations from the requirements of the law.²⁴ Its failure to follow the mandated procedure must be adequately explained and must be proven as a fact in accordance with the rules on evidence. The rules require that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit, coupled with a statement on the steps they took to preserve the integrity of the seized item.²⁵ A stricter adherence to Section 21 is required where the quantity of illegal drugs seized is minuscule since it is highly susceptible to planting, tampering, or alteration.²⁶

²² *People v. Dan Dumanjug y Loreña*, G.R. No. 235468, July 01, 2019.

²³ G.R. No. 231843, November 7, 2018.

²⁴ See *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 22, 39-40; *People v. Paz*, G.R. No. 229512, January 31, 2018, 854 SCRA 42, 57; *People v. Mamangon*, G.R. No. 229102, January 29, 2018, 853 SCRA 302, 319; and *People v. Jugo*, G.R. No. 231792, January 29, 2018, 853 SCRA 320, 337-338.

²⁵ *People v. Saragena*, 817 Phil. 117, 134 (2017).

²⁶ See *People v. Abelarde*, G.R. No. 215713, January 22, 2018, 852 SCRA 252, 263.

After a careful evaluation of the entire records of the case, the Court finds that the evidence presented by the prosecution failed to establish an unbroken chain of custody of the seized drugs. Consequently, the integrity and identity of the seized drugs were not proven beyond reasonable doubt.

Thus, this Court finds it appropriate to acquit the appellant as her guilt has not been established beyond reasonable doubt.

WHEREFORE, premises considered, the Decision dated November 27, 2014 of the Court of Appeals in CA-G.R. CR. HC. No. 01477 affirming the Judgment of the Regional Trial Court, Branch 57, Cebu City is **REVERSED AND SET ASIDE**. Appellant Alice Paca y Tañag is **ACQUITTED** for failure of the prosecution to prove her guilt beyond reasonable doubt. She is **ORDERED IMMEDIATELY RELEASED** from detention, unless she 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 of the Bureau of Corrections and the Superintendent of the Correctional Institution for Women, for immediate implementation. Said Director and Superintendent are **ORDERED to REPORT** to this Court within five (5) working days from receipt of this Resolution the action they have taken.

SO ORDERED.”

Very truly yours,

Mis-ADC Batt
MISAEEL DOMINGO C. BATTUNG III
Division Clerk of Court

GER
11/26/20

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