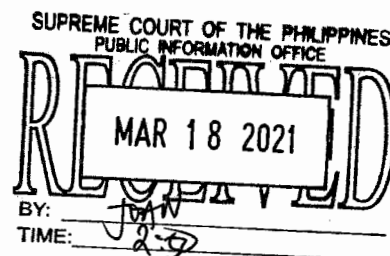




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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated September 9, 2020, which reads as follows:

“G.R. No. 230912 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. SHERWIN RECEDE y DE CASTRO, *accused-appellant*). — This Court resolves the appeal¹ from the Decision² of the Court of Appeals, which affirmed Sherwin Recede y De Castro’s (Recede) conviction for violation of Section 5 of the Comprehensive Dangerous Drugs Act of 2002.

On October 12, 2011, an Information was filed charging Sherwin Recede with the crime of illegal sale of dangerous drugs. It reads in part:

That on or about the 11th day of October, 2011 at about 3:00 o’clock (sic) in the afternoon at Brgy. Maraouy, Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully sell, deliver, dispose or give away to a police officer/poseur buyer 0.04 gram of Methamphetamine Hydrochloride, locally known as ‘shabu’, a dangerous drug, contained in one (1) heat sealed transparent plastic sachet.

Contrary to law.³

Recede pled not guilty upon arraignment, and trial on the merits ensued.⁴

The version of the prosecution, as summarized by the Court of Appeals, is as follows:

Sometime in September 2011, Police Officer 2 Joseph O. Valencia (PO2 Valencia) of the Lipa Police Station learned from his nephew that

¹ *Rollo*, pp. 13–15.

² *Id.* at 2–12. The November 8, 2016 Decision in CA-G.R. CR HC No. 07472 was penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Ramon M. Bato, Jr. and Henri Jean Paul B. Inting (now a member of this Court) of the Special Twelfth Division of the Court of Appeals, Manila.

³ *Id.* at 3.

⁴ *Id.* at 4.

Recede had been selling shabu. Thus, surveillance operations were conducted, during which the police saw persons on motorcycles and tricycles approach Recede to talk for a while, then leave.⁵

On October 11, 2011, while still surveilling, PO2 Valencia saw an asset speaking with Recede. He immediately contacted this asset and asked him to proceed to the police station to arrange a buy-bust operation.⁶

PO2 Valencia prepared the necessary documents, and the investigating officer, Senior Police Officer 1 Arnold T. Quinio (SPO1 Quinio), marked a ₱500.00 bill with his initials. At 2:00 p.m. that day, the buy-bust team composed of SPO1 Quinio, PO2 Francis B. Pitogo, Jr. (PO2 Pitogo), PO3 Ronnie T. Adaya (PO3 Adaya), and PO2 Valencia proceeded with the asset to meet with their target.⁷

Upon arrival in Barangay Maraouy, somewhere near Recede's house, PO2 Pitogo, PO3 Adaya, and the asset approached Recede. They talked briefly before PO2 Pitogo and Recede exchanged the marked bill for a plastic sachet of crystalline substance.⁸ At this, PO2 Pitogo removed his cap to signal to the team that the transaction had been made. Recede attempted to escape as the team rushed in, but he was subdued. The team then brought him to the police station to avoid any commotion on what they deemed was a busy street.⁹

On the way to the station, PO2 Valencia marked the seized sachet in the presence of Recede. Once the team reached the police station, SPO1 Quinio inventoried the seized item in the presence of Recede, Department of Justice representative Rodel Limbo, media representative Margie Manguiat, and Chief Barangay Tanod Felipe Castillo. Two photographs were taken showing Recede with the seized sachet and the marked bill. The sachet was then turned over to PO3 Abaya, who delivered it to the Batangas Provincial Crime Laboratory, together with the request for laboratory examination.¹⁰ The seized item tested positive for shabu.¹¹

Recede denied all the accusations against him. He claimed that he was going to his cousin's house when SPO1 Quinio and PO2 Valencia apprehended and brought him to the police station. There, they showed him a plastic sachet of shabu and a ₱500.00 bill that they claimed had been

⁵ Id.
⁶ Id.
⁷ Id.
⁸ Id.
⁹ Id. at 5.
¹⁰ Id.
¹¹ Id.

seized from him. He denied any knowledge of the items, saying that he was made to point to the items as pictures were taken.¹²

In a February 24, 2015 Order,¹³ the Regional Trial Court found Recede guilty beyond reasonable doubt of the crime charged. It held that the prosecution established the identity of the buyer and seller, the object, and the consideration, as well as the delivery of the thing sold and the payment.¹⁴

The Regional Trial Court also held that the chain of custody rule had been “carefully followed”:

Clearly, the chain of custody rule was carefully followed hence the identi[t]y and integrity of the specimen was safeguarded. That PO2 Valencia identified in Court the sachet of shabu actually bought by PO2 Pitogo from the accused which the former marked SDR-JOV, is indicative that the prosecution was able to preserve the integrity and evidentiary value of the s[ei]zed item. The People satisfied the requirements enunciated in *People versus Reyman Endaya* G.R. No. 205741; July 23, 2014 decided by the Highest Court, as follows:

“Indeed, this Court has in many cases held that “while the chain of custody should ideally be perfect, in reality it is not, as it is almost always impossible to obtain an unbroken chain. The most important factor is the preservation of the integrity and evidentiary value of the seized items as they will be used to determine the guilt or innocence of the accused.

Relative to the inventory of confiscated items even if one of the signatories there is the Chief of the Barangay Tanod and not an elected public official such defect would not render the preparation of the inventory as a non-compliance with the provisions of Section 21 par (1) of RA 9165. In the aforesaid case of *People versus Endaya*, the i[n]ventory was signed by an employee of the municipal trial court, instead of a DOJ representative but still the High Court considered that the provisions of Section 21 (1) of RA 9165 were complied with. The High Court ratiocinated that:

“In any case, contrary to appellant’s claim strict compliance with Section 21, Article II of RA9165 is not necessary as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/team.”¹⁵ (Citations omitted)

¹² Id. at 5–6.

¹³ *CA rollo*, pp. 66–72. The Decision in Crim. Case No. 0577-2011 was penned by Judge Danilo S. Sandoval of the Regional Trial Court, Lipa City, Branch 12.

¹⁴ Id. at 70.

¹⁵ Id. at 71.

Thus, the Regional Trial Court rejected Recede's defense of denial and found that he had violated Section 5 of Republic Act No. 9165.¹⁶ The dispositive portion of the Order reads:

WHEREFORE, the Court finds accused Sherwin Recede y de Castro guilty beyond reasonable doubt as principal by direct participation of the crime of drug pushing as defined and penalized under Section 5, Article II of the Comprehensive Dangerous Drugs Act of 2002 and hereby imposes on him the penalty of life imprisonment and to pay a fine of P500,000.00. The 0.04 gram of shabu is hereby ordered destroyed pursuant to the provisions of Section 21 (4) and (7) of RA 9165.

The period of detention of the accused shall be deducted in the service of his sentence.

Let a mittimus be issued for the transfer of custody of the accused from the BJMP, Lipa City to the National Penitentiary, Muntinlupa City.

SO ORDERED.¹⁷ (Emphasis in the original)

Recede filed a Notice of Appeal¹⁸ before the Regional Trial Court. Subsequently, Recede, through counsel, filed his Brief¹⁹ before the Court of Appeals on January 25, 2016. The Office of the Solicitor General filed its Brief²⁰ on May 13, 2016.

Recede argued that the prosecution witnesses' testimonies were inconsistent and incredible.²¹ He pointed out that PO2 Pitogo testified that the buy-bust team had five police officers²² in addition to the civilian asset,²³ while PO2 Valencia testified that the team only had four members. He also pointed out that PO3 Pitogo testified that the asset arrived at their office at 11:00 a.m. on the day of the buy-bust operation, which had, in turn, been planned only three hours after the asset's arrival. PO2 Valencia, on the other hand, testified that the asset arrived at around 12:30 p.m., and that he coordinated with the Philippine Drug Enforcement Agency at 1:30 p.m.²⁴

Recede also noted that the officers gave different accounts as to who was seated beside the asset in the van on the way to Barangay Maraouy.²⁵ Moreover, he pointed to how PO3 Pitogo and SPO1 Quinio testified that the asset had already confirmed the meeting place and time with Recede, and that they were in constant communication, even while the team was on its

¹⁶ Id.

¹⁷ Id. at 72.

¹⁸ Id. at 15.

¹⁹ Id. at 33-65.

²⁰ Id. at 85-111.

²¹ Id. at 35.

²² Id. at 41.

²³ Id. at 43.

²⁴ Id. at 45-46.

²⁵ Id. at 46.

way to meet Recede.²⁶ PO2 Valencia, however, testified that he did not see the asset seated beside him on the way to Barangay Maraouy, and that he did not see him ever holding a cellphone. He also noted that there was no agreed meeting time or place, and that they would still have to look for him.²⁷

Another inconsistency, Recede pointed out, was in the details of his arrest. He noted how PO3 Pitogo claimed to have arrested him around 15 meters from the team van, and that while this was happening, the asset boarded the team van to avoid identification.²⁸ PO2 Valencia, however, said that at the time of the arrest, the asset had boarded a jeepney to Inoslubam as part of the plan.²⁹ Even SPO1 Quinio provided a different version, saying that only he, PO3 Adaya, and PO2 Valencia had conducted the arrest. He testified that PO3 Pitogo left with the asset, after having bought the item and giving it to PO2 Valencia.³⁰

Aside from pointing out holes in the witnesses' testimonies, Recede also argued that the chain of custody rule had been violated.³¹ He claimed that the prosecution witnesses did not clearly establish when and where the markings had been made: PO3 Pitogo first testified that he could not recall if the item had been marked when he saw it at the police station,³² but on cross-examination, said that PO2 Valencia marked the item only at the police station; in contrast, PO2 Valencia testified that he marked the item in the vehicle going to the station. SPO1 Quinio, however, testified that the item had been marked at the place of arrest, and that the inventory and photographing of the seized item were done only at the police station. For his part, PO3 Pitogo testified that he did not see any inventory prepared, and nor was any elected official, media representative, or personnel from the Department of Justice present at the station.³³

Finally, Recede pointed out that the prosecution failed to establish any justifying circumstance for the buy-bust team's lapses.³⁴

Arguing for the prosecution, the Office of the Solicitor General insisted that the witnesses' testimonies had no material inconsistencies. On the number of team members, it said that PO2 Pitogo was testifying only to the total number of task force members, while PO2 Valencia was testifying that only four operatives were with him during the buy-bust.³⁵ It also

²⁶ Id. at 47-48.

²⁷ Id. at 49-50.

²⁸ Id. at 50-53.

²⁹ Id. at 54.

³⁰ Id. at 55.

³¹ Id. at 56.

³² Id. at 58.

³³ Id. at 59.

³⁴ Id. at 60.

³⁵ Id. at 95.

dismissed as immaterial the inconsistency in the time that the asset arrived at the police station and the seating arrangement during the ride. It argued that the supposed inconsistencies were due to a misreading of the transcript of PO2 Valencia's testimony.³⁶

As to whether there was an agreed time and place, the Office of the Solicitor General insisted that the witnesses uniformly testified that the asset had arranged the meeting beforehand.³⁷ It alleged that the variations in the distances between Recede and the van during the arrest were irrelevant, being mere approximations.³⁸ It did not mention the conflicting narrations on who had parted ways after the arrest, or who rode the van to the police station, but generally dismissed any inconsistencies as insufficient to render the testimonies incredible. It insisted that the testimonies point to Recede's involvement in the buy-bust operation, enough to sustain his conviction.³⁹

On the chain of custody, the Office of the Solicitor General maintained that the rules were sufficiently observed. It pointed out that PO2 Pitogo handed the seized item to PO2 Valencia, who then had custody of the item until it was inventoried. It also quoted PO2 Valencia's testimony as sufficient to establish the proper marking and inventory of the seized item:

Q Where did you proceed after you alighted from the vehicle?

A We approached the three and upon approaching them, it was the time Pitogo showed to me the shabu he was able to buy at the same [sic] handing it to me, Ma'am.

Q What happened after you were handed by Pitogo the sachet?

A Upon seeing, it came to my mind it might be the shabu that was bought and I marked it with initial SDR-JOV, Ma'am.

Q What writing material did you use for the purpose of indicating those markings?

A Black pentel pen, Ma'am.

Q Is there any significance on the letters that you indicated in the sachet?

A As a marking Ma'am.

Q And the letters SDR and JOV mean anything?

A The initial of our names, Ma'am.

....

Q So after you placed the marking and the accused was arrested, what happened next?

A Since there were many people arrived [sic] in the place, we went

³⁶ Id. at 96.

³⁷ Id. at 97.

³⁸ Id. at 98.

³⁹ Id. at 99.

back to the office, Ma'am.

Q What time was that when the accused was already arrested?

A That was already 3 o'clock in the afternoon, Ma'am.

Q What happened after you went back to the police station?

A I prepared the request for examination for the crime lab and request for drug test, Ma'am.⁴⁰

On the inventory, the Office of the Solicitor General again quoted PO2 Valencia's testimony, arguing that this was sufficient to establish the team's compliance with Republic Act No. 9165:

Q What was the reaction of the accused when you handcuffed him?

A He did not have any reaction because he was already arrested, Ma'am.

Q What happened after that?

A We summoned the barangay official for the inventory of the items we have confiscated from him unfortunately nobody was able to [arrive] immediately, ma'am.

Q By that answer of yours does it mean later on there was some [sic] who came for the inventory?

A We just told the other barangay officials to just follow to the Police Station so that they can witness the inventory that we will be conducting, ma'am.

Q Was there anyone from that barangay who actually went to your office for that purpose?

A Yes, ma'am.

Q Who was that person?

A I could not recall the name of that person but if the signature will be shown to me I will be able to recall ma'am.

Q What happened at the Police Station when you arrived?

A We brought him to the Police Station and recorded the arrest in the police blotter and conducted the inventory, ma'am.

Q Who actually conducted the inventory?

A I was the one who conducted the inventory.

Q Was it reduced into writing?

A Yes, ma'am.

.....

Q Now on the bottom portion of that inventory on top of the caption team leader is a signature, whose signature is that?

A This is my signature, ma'am.

⁴⁰ Id. at 103-105.

Q There are also blank portion [sic] here with the caption witnesses, Department of Justice, Elected Official, Media and suspect, can you enlighten us what does this portion represent?

A These are the witnesses who arrived in the office to act as witness to the conduct of inventory, ma'am.

Q Can you read the names of these persons and identify them.

A In the Department of Justice it was Rodel Limbo, elected official Felipe Castillo and the Chief of the Barangay Tanod, ma'am.

.....

Q How about the media?

A Margie Manguiat, ma'am.

Q Of what media outfit?

A 99.9 radio station, ma'am.

COURT

Q What is her position in the broadcast media?

A Segment field reporter, Your Honor.

PROSECUTOR

Q Aside from preparing the inventory what else happened in the Police Station with regards to the accused in this case?

A We took pictures of the suspect and the evidence, ma'am.

Q Who took the pictures?

A Police Officer Joseph Valencia, ma'am.

Q Did you actually see the pictures printed?

A Yes, ma'am.⁴¹ (Citations omitted)

In a November 8, 2016 Decision,⁴² the Court of Appeals affirmed the Regional Trial Court Decision. The dispositive portion of the Decision read:

WHEREFORE, foregoing considered, the appeal is **DENIED**.
The Order dated 24 February 2015 of the Regional Trial Court, Branch 12, Lipa City is **AFFIRMED**.

SO ORDERED.⁴³ (Emphasis in the original)

Recede filed a Notice of Appeal,⁴⁴ and the Court of Appeals elevated the records of the case to this Court.⁴⁵ Accused-appellant and the Office of

⁴¹ Id. at 105–107.

⁴² *Rollo*, pp. 2–12.

⁴³ Id. at 11–12.

⁴⁴ CA *rollo*, pp. 142–145.

⁴⁵ Id. at 146.

the Solicitor General both manifested that they would no longer be filing supplemental briefs.⁴⁶

The principal issue for this Court's resolution is whether or not the prosecution established beyond reasonable doubt that accused-appellant Sherwin Recede y De Castro is guilty of violating Section 5 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act.

Accused-appellant is acquitted of the crime charged.

An accused is presumed innocent⁴⁷ unless their guilt is proven beyond reasonable doubt by the prosecution.⁴⁸

To convince a court beyond reasonable doubt that an accused is guilty of illegal possession and sale of drugs, the prosecution must prove that dangerous drugs were seized from the accused, and that the "drugs examined and presented in court were the very ones seized."⁴⁹ Section 21 of the Comprehensive Dangerous Drugs Act lays down stringent requirements that must be observed to establish with moral certainty the identity of the dangerous drugs seized and presented in court:

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.* — . . .

- (1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory 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, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]

⁴⁶ *Rollo*, pp. 21–24 and 27–31.

⁴⁷ CONST., art. III, sec. 14(2) provides:

(2) In all criminal prosecutions, the *accused shall be presumed innocent until the contrary is proved*, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable. (Emphasis supplied)

⁴⁸ *People v. Royol*, G.R. No. 224297, February 13, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65005>> [Per J. Leonen, Third Division].

⁴⁹ *People v. Nandi*, 639 Phil. 134, 142 (2010) [Per J. Mendoza, Second Division].

Observing these requirements minimizes any possibility that the evidence was planted or adulterated.⁵⁰ Failure to comply raises doubt that the drugs examined and presented in court were seized from the accused.

Republic Act No. 9165 and case law clearly mandate that the first step to be observed by the apprehending team in a buy-bust is the marking, physical inventory, and photographing of the seized items *immediately after seizure*, in the presence of specified witnesses.⁵¹ Here, the Court of Appeals held the apprehending team's procedure sufficient:

The seizure was effected by the poseur buyer, PO2 Pitogo. Thereafter, PO2 Pitogo turned over the drug specimen to PO2 Valencia who marked the plastic sachet in accused-appellant's presence with "SDR-JOV" representing the initials of accused-appellant's name as well as that of PO2 Valencia. Then, at the police station, investigating officer SPO1 Quinio immediately prepared the inventory in the presence of accused-appellant as well as the representatives of the DOJ, media and barangay. Notably, the prosecution presented two (2) pictures depicting accused-appellant with the seized sachet and the marked money. Afterwards, PO2 Valencia turned over the plastic sachet to PO3 Adaya who personally delivered the request for examination to PSI Llacuna of the Batangas Provincial Crime Laboratory. PSI Llacuna then executed a Chemistry Report, the authenticity and due execution of which as well as the fact that said report and the plastic sachet containing shabu were duly submitted to the trial court were then the subject of stipulation by the defense and prosecution during trial.⁵² (Citations omitted)

This narration, however, glosses over the crucial first step under Republic Act No. 9165 that was ignored by the apprehending team.

Instead of marking, photographing, and inventorying the seized sachet immediately after seizure and in the presence of the required witnesses, the team marked the item only in the van on the way to the police station. The photographing and inventory were done only at the police station.⁵³

Nonetheless, the Court of Appeals reasoned that these lapses did not diminish the evidentiary value of the sachet presented in court. It noted that this Court has held that the requirement of immediacy "allows the marking of the plastic sachet at the nearest police station or office of the apprehending team."⁵⁴

⁵⁰ *People v. Lim*, G.R. No. 231989, September 4, 2018, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>> [Per J. Peralta, En Banc].

⁵¹ *People v. Claudel*, G.R. No. 219852, April 3, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65135>> [Per J. Caguioa, Second Division].

⁵² CA rollo, p.132.

⁵³ Rollo, p. 5.

⁵⁴ Id. at 11.

Although the law⁵⁵ states that the physical inventory and photographing may be conducted at the nearest police station or office, this is an exception to the rule. It is allowed only when the steps are not practicable immediately after seizure.⁵⁶ Before a court may accept this impracticability, it must first be alleged and proved.⁵⁷

On the failure to conduct the marking, inventory, and photographing immediately upon seizure, the Court of Appeals accepted as a justifiable ground that it was done “at the police station, rather than on that very busy street, so as not to compromise their security and safety.”⁵⁸ However, the prosecution failed to prove that there were any security and safety concerns. As PO3 Pitogo testified, the arrest and seizure were made on a sunny afternoon, with only a few people present:

Q So, the arrest of the accused happened at 3 o'clock already?

A Yes, Ma'am.

Q Can you describe to us the number of persons present at the vicinity if there was any?

A There were a few persons only, Ma'am.

Q From that area where you were, is there any school that you saw?

A None, Ma'am.

Q Cemented establishments?

A It's like a 'talipapa' on the left side, Ma'am.

Q What do you mean left side?

A At the opposite side of the street, Ma'am.

Q At that 3 o'clock were there clients or customers in that 'talipapa'?

A None, Ma'am.

Q Were there sellers or vendors?

A They were inside, Ma'am.

Q Was it raining that time?

A No, Ma'am.

Q Was the sun out?

A Yes, Ma'am.⁵⁹ (Citation omitted)

⁵⁵ At the time of the arrest, Section 21 of the Implementing Rules and Regulations of Republic Act No. 9165 applies.

⁵⁶ *People v. Claudel*, G.R. No. 219852, April 3, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65135>> [Per J. Caguioa, Second Division].

⁵⁷ *People v. Lim*, G.R. No. 231989, September 4, 2018, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>> [Per J. Peralta, En Banc].

⁵⁸ CA *rollo*, p. 133.

⁵⁹ *Id.* at 61.

Moreover, the Office of the Solicitor General did not discuss the absence of the required witnesses immediately after seizure. However, the reasons may be gleaned from the quoted testimony in its Brief, which stated that after accused-appellant's arrest, the team "summoned the barangay official for the inventory . . . unfortunately nobody was able to [arrive] immediately . . . We just told the other barangay officials to just follow to the Police Station so that they can witness the inventory that we will be conducting, ma'am."⁶⁰ This narration reveals that the team had no intention to strictly comply with Section 21 of Republic Act No. 9165.

In *People v. Claudel*,⁶¹ this Court pointed out that having the required witnesses present immediately after seizure can be easily arranged since buy-busts are generally planned activities, and the team has sufficient time to plan and make the necessary arrangements. There may be occasions when such absence is reasonable and does not affect the evidentiary value of the seized drugs. However, the circumstances surrounding their absence must be convincing, sufficiently alleged and proved in court. In *People v. Ramos*,⁶² this Court reiterated that mere statements of unavailability are unacceptable:

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witnesses under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that earnest efforts were employed in contacting the representatives enumerated under the law for "a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse." Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.⁶³
(Citations omitted)

⁶⁰ Id. at 105.

⁶¹ G.R. No. 219852, April 3, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65135>> [Per J. Caguioa, Second Division].

⁶² G.R. No. 233744, February 28, 2018, 857 SCRA 175 [Per J. Perlas-Bernabe, Second Division].

⁶³ Id. at 190–191.

Without any justifiable ground for the arresting officers' failure to strictly adhere to the mandated procedure under the law, there is doubt as to the source, identity, and integrity of the drugs allegedly seized from accused-appellant. The minuscule amount of drugs allegedly seized merits a higher level of scrutiny on the credibility evidence against him.⁶⁴

WHEREFORE, the November 8, 2016 Decision of the Court of Appeals in CA-G.R. CR HC No. 07472 is **REVERSED** and **SET ASIDE**. Accused-appellant Sherwin Recede y De Castro is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from confinement unless he is being held for some other lawful cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General of the Bureau of Corrections is directed to report the action he has taken to this Court within five days from receipt of this Resolution. For their information, copies shall also be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency.

The Regional Trial Court is directed to turn over the drugs subject of this case to the Dangerous Drugs Board for destruction in accordance with law.

Let entry of final judgment be issued immediately.

SO ORDERED." (Padilla, J., on leave.)

By authority of the Court:

Misael DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
GER
5/15/21

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

COURT OF APPEALS
CA G.R. CR HC No. 07472
1000 Manila

⁶⁴ *People v. Holgado*, 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

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