



**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 199938**
Appellee,

Present:

- versus -

**CAMALODING
SAMANODING,**

LABA y
Appellant.

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

JAN 28 2013 *HW Cabalag Projecto*

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DECISION

PERLAS-BERNABE, J.:

This is an appeal from the April 7, 2011 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02479 which affirmed *in toto* the August 29, 2006 Decision² of the Regional Trial Court (RTC) of Pasay City, Branch 231, convicting appellant Camaloding Laba y Samanoding (appellant) for violation of Section 5, Article II of Republic Act (RA) No. 9165³ and sentencing him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00 without subsidiary imprisonment in case of insolvency, and costs.

The Facts

On July 18, 2005, at around 10:45 in the morning, appellant arrived at the Manila Domestic Airport in Pasay City to take his flight bound for Davao City. When he approached the initial check-in area, Mark Anthony

¹ *Rollo*, pp. 2-13. Penned by Associate Justice Rodil V. Zalameda, with Associate Justices Amelita G. Tolentino and Normandie B. Pizarro, concurring.

² *CA rollo*, pp. 15-23. Penned by Judge Cesar Z. Ylagan.

³ Otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

Villocillo (Villocillo), a non-uniformed personnel (NUP)⁴ frisker assigned thereat,⁵ physically searched the person of appellant and suspected that the latter's oversized white rubber shoes, with the identifying mark "Spicer,"⁶ seemed to contain what felt like rice.⁷ Upon inspection of the rubber shoes, which Villocillo asked appellant to remove,⁸ the former discovered three (3) plastic sachets containing *shabu* – two plastic sachets were inside the left shoe while one was inside the right shoe.⁹

When Villocillo extracted the plastic sachets from appellant's shoes, the latter told Villocillo, "*Baka pwedeng pag-usapan ito*" while simultaneously handing him a rolled wad of paper bills.¹⁰ Eventually, Villocillo called the attention of his supervisor, SPO2 Nolasco Peji¹¹ (SPO2 Peji), who apprehended appellant and apprised him of his rights.¹² Subsequently, appellant was brought to their office and investigated by PO2 Edwin Caimoso,¹³ who thereafter indorsed appellant, together with the confiscated plastic sachets, to Philippine Drug Enforcement Agency (PDEA) agents who had eventually arrived at the scene.¹⁴

On the same day, the PDEA, through Police Inspector Peter P. Alvarez, requested¹⁵ that a laboratory examination on the three (3) plastic sachets be conducted, which were accordingly marked as follows:

- (a) EXH-A MTV ECC NSP 18/06/05 and signatures – 98.81 grams
- (b) EXH-B MTV ECC NSP 18/06/05 and signatures – 96.65 grams
- (c) EXH-C MTV ECC NSP 18/06/05 and signatures – 1.17 grams¹⁶

The following day, or on June 19, 2005, upon qualitative examination by forensic chemist Police Senior Inspector Stella Garciano Ebuena (Police Senior Inspector Ebuena) on the confiscated sachets, which contained a total of **196.63 grams** of white crystalline substance, the same tested positive for methamphetamine hydrochloride, a dangerous drug.¹⁷

Consequently, appellant was charged with violation of Sec. 5, Art. II of RA 9165 in an Information¹⁸ which reads:

⁴ TSN, February 1, 2006, p. 15; and TSN, February 15, 2006, p. 23.

⁵ TSN, July 4, 2005, p. 8.

⁶ TSN, November 23, 2005, p. 5.

⁷ Id. at 10.

⁸ Id. at 12.

⁹ Id. at 9-10.

¹⁰ Id. at 14.

¹¹ Also referred to as "Peje" in the records.

¹² TSN, November 23, 2005, p. 15; and TSN, February 15, 2006, p. 18.

¹³ TSN, February 15, 2006, p. 30.

¹⁴ Id. at 31.

¹⁵ Records, p. 8.

¹⁶ Id. at 9.

¹⁷ Id.

¹⁸ Id. at 1.

That on or about the 18th day of June 2005, in Pasay City, Metro-Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being a departing passenger via Cebu Pacific Airlines flight no. 5J-965 239 bound for Davao, without authority of law, did then and there willfully, unlawfully and feloniously transport 196.63 grams of Methylamphetamine hydrochloride (*SHABU*), a dangerous drugs, by concealing it inside his worn colored white rubber shoes with marking “SPICER.”

Contrary to law.

When arraigned on June 27, 2005 with the assistance of counsel, appellant entered a plea of *not guilty* to the offense charged.¹⁹

In defense, appellant claimed that on the date and time in question, he was at the Manila Domestic Airport²⁰ for his flight to Davao City. After passing through the metal detector and while walking towards the ticketing counter to check-in, a police officer, whom he later identified as SPO2 Peji,²¹ called his attention and asked him to stay for a while²² because something was allegedly recovered from him. At the same time, appellant noticed that someone had been arrested, and he heard SPO2 Peji tell that person to settle the case so that they could just “pass” the “thing” to appellant, which turned out to be *shabu*.²³

Thereafter, SPO2 Peji and Villocillo brought appellant to an office²⁴ where SPO2 Peji forced him to admit ownership of the *shabu*.²⁵ When appellant refused, SPO2 Peji suggested the settlement of the case for ₱100,000.00, an amount which appellant could not afford.²⁶ Later, he was brought to a PDEA office where PDEA agents took his statement and once again asked him to admit ownership of the confiscated *shabu*.²⁷ Appellant averred that SPO2 Peji confiscated his wallet which contained ₱1,600.00 in cash, as well as ₱2,000.00 found in the pocket of his pants.²⁸ Finally, appellant denied wearing the white rubber shoes with the label “Spicer” at the time he was arrested.²⁹

Ruling of the RTC

¹⁹ Id. at 24.

²⁰ TSN, April 5, 2006, p. 9.

²¹ Id. at 15.

²² Id. at 12.

²³ Id. at 12-14.

²⁴ Id. at 16.

²⁵ Id. at 20.

²⁶ Id. at 21.

²⁷ Id. at 22-23.

²⁸ Id. at 24-26.

²⁹ Id. at 30.

On August 29, 2006, after trial on the merits, the RTC convicted³⁰ appellant as charged upon a finding that all the elements for transportation of drugs, *i.e.*, actual physical possession and control of the prohibited drugs, coupled with the presentation of the *corpus delicti* in court,³¹ have been established by the prosecution. It found the testimonies of prosecution witnesses Villocillo and SPO2 Peji to be candid, forthright and reliable. Moreover, as law enforcers, they were presumed to have regularly performed their official duties.

On the other hand, the RTC refused to give credence to appellant's bare and unsubstantiated denials, as well as his claim that he was merely framed-up, and his insistence that the police officers were extorting money from him. The *fallo* of the judgment of conviction reads:

WHEREFORE, on the evidence adduced and the facts and conclusions drawn therefrom, the accused CAMALODING LABA y SAMANODING is hereby found Guilty beyond reasonable doubt of the offense charged in the Information and is sentenced to suffer the penalty of LIFE IMPRISONMENT and PAY A FINE OF FIVE HUNDRED THOUSAND PESOS (Php500,000.00) WITHOUT SUBSIDIARY IMPRISONMENT IN CASE OF INSOLVENCY, AND COSTS.

SO ORDERED.³²

Ruling of the CA

On appeal, the CA affirmed³³ the RTC Decision *in toto*, holding that the identity of the seized substance had been adequately proved and that the chain of custody was properly established, from the time that it was recovered from the person of the appellant, tested at the laboratory for a qualitative examination, and its actual presentation in court. While the CA conceded that the arresting officers were unable to strictly comply with the requirements set forth under Sec. 21, Par. (1) of RA 9165 by failing to photograph the seized items, it nonetheless found that the evidentiary value of the confiscated substance had been preserved. It also did not find the non-presentation of the forensic chemist as fatal to the cause of the prosecution.

Issue Before The Court

³⁰ CA *rollo*, pp. 15-23.

³¹ Id. at 22.

³² Id. at 23.

The core issue to be resolved by the Court is whether the CA and the RTC committed any reversible error in convicting appellant as charged.

The Court's Ruling

Appellant was convicted of violation of Sec. 5, Art. II of RA 9165, which reads:

Sec. 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and **Transportation** of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — 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 sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or **transport** any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any such transactions. (Emphasis supplied)

In adjudging appellant guilty beyond reasonable doubt of the said offense, the RTC, as affirmed by the CA, considered the fact that he was caught in *flagrante delicto* in possession of an extremely large amount of prohibited drugs inside the airport, before boarding his flight bound for Davao City. The RTC explained³⁴ that Sec. 5, Art. II of RA 9165 penalizes the act of **transporting shabu**, under which provision appellant must clearly be convicted.

The Court sustains appellant's conviction.

"Transport" as used under the Dangerous Drugs Act is defined to mean "to carry or convey from one place to another."³⁵ The essential element of the charge is the movement of the dangerous drug from one place to another.³⁶

In this case, appellant was apprehended inside the airport, as he was intending to board his flight bound for Davao City with a substantial amount or **196.63 grams** of methylamphetamine hydrochloride or *shabu* in his possession, concealed in separate plastic bags inside his oversized Spicer

³³ *Rollo*, pp. 2-13.

³⁴ *CA rollo*, p. 22.

³⁵ *San Juan v. People*, G.R. No. 177191, May 30, 2011, 649 SCRA 300, 312, citing *People v. Del Mundo*, G.R. No. 138929, October 2, 2001, 366 SCRA 471, 485.

³⁶ *San Juan v. People*, *id.*

rubber shoes. While it may be argued that appellant was yet to board the aircraft or travel some distance with the illegal drugs in his possession, it cannot be denied that his presence at the airport at that particular instance was for the purpose of *transporting* or *moving* the dangerous drugs from one place to another.

Moreover, it may be reasonably inferred from the deliberations of the Congress that if a person is found to have more than five (5) grams of *shabu* in his possession, then his purpose in carrying them is to dispose, traffic, or sell it, as follows:

REPRESENTATIVE AQUINO (B.). We agree with the premises, Mr. Speaker. But just for the sake of our education, in terms of volume, somebody informed this Representation that one gram of shabu would probably be the same size as a single kernel of corn. Would that be correct?

REPRESENTATIVE CUENCO. The technical committee that has been assisting us in carpentering this bill tells us that a habitual user of, let's say, shabu, one of the dangerous substances provided for here, a habitual user of shabu, even if we say daily taker of shabu consumes only 1/5 of a gram, .02 grams a day. So that means, if he has with him one gram of shabu, that is good for five days; if he has five grams, that is good for 25 days. Now if he is a user, he won't need more than five grams to carry with him or her. So the presumption of the law is that, if he carries with him or her more than five grams, that is not for his personal consumption. He is out to traffic the rest of it.³⁷ (Underscoring supplied)

With respect to the chain of custody of the confiscated drugs, the Court likewise finds no reason to disturb the findings of the CA that the same had been faithfully observed by the arresting officers: from the time that the illegal substance was seized from appellant and properly marked by the arresting officers, to its laboratory examination until its presentation in open court for identification purposes.³⁸ Considering that the integrity of the seized substance has been duly preserved, failure to strictly comply with Sec. 21, Par. (a)³⁹ of RA 9165 requiring the apprehending officers to

³⁷ Record of the Deliberations of the House of Representatives, First Regular Session, 12th Congress (2001), March 11, 2002, pp. 258-260.

³⁸ *Rollo*, pp. 8-11.

³⁹ 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 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; x x x

physically inventory and photograph the confiscated items shall not render the evidence inadmissible.⁴⁰

Neither will the non-presentation in court of Police Senior Inspector Ebuén, the forensic chemist who conducted the laboratory examination on the confiscated substance, operate to acquit appellant. The matter of presentation of witnesses by the prosecution is not for the court to decide. It has the discretion as to how to present its case and it has the right to choose whom it wishes to present as witnesses.⁴¹ Besides, *corpus delicti* has nothing to do with the testimony of the chemical analyst, and the report of an official forensic chemist regarding a recovered prohibited drug enjoys the presumption of regularity in its preparation.⁴² Corollarily, under Sec. 44⁴³ of Rule 130, Revised Rules of Court, entries in official records made in the performance of official duty are *prima facie* evidence of the facts they state.

WHEREFORE, the Court **AFFIRMS** the April 7, 2011 Decision of the Court of Appeals in CA-G.R. CR-HC No. 02479.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

(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; x x x

⁴⁰ *Imson v. People*, G.R. No. 193003, July 13, 2011, 653 SCRA 826, 834.

⁴¹ *People v. Angkob*, G.R. No. 191062, September 19, 2012.

⁴² *People v. Quebral*, G.R. No. 185379, November 27, 2009, 606 SCRA 247, 255, citing *People v. Cervantes*, G.R. No. 181494, March 17, 2009, 581 SCRA 762, 781, *People v. Bandang*, G.R. No. 151314, June 3, 2004, 430 SCRA 570, 586-587 and *Malillin v. People*, G.R. No. 172953, April 30, 2008, 553 SCRA 619, 631-632.

⁴³ Sec. 44, *Entries in official records*. Entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated.

*I concur: per my.
Originally filed Opinion*

**ARTURO D. BRION**

Associate Justice

**MARIANO C. DEL CASTILLO**

Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO**

Associate Justice

Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P.A. SERENO**

Chief Justice