



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 191730

Present:

BRION,* J.,
 Acting Chairperson,
 DEL CASTILLO,
 PEREZ,
 PERLAS-BERNABE, and
 LEONEN,** JJ.

- versus -

Promulgated:

MYLENE TORRES y CRUZ,
 Accused-Appellant.

JUN 15 2013

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DECISION

PEREZ, J.:

This is an appeal from the Decision¹ dated 11 February 2010 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03454, affirming *in toto* the Decision² dated 17 August 2007 of the Regional Trial Court (RTC) of Pasig City, Branch 154, in Criminal Case No. 15342-D, finding herein appellant Mylene Torres y Cruz guilty beyond reasonable doubt of illegal sale of *shabu*, under Section 5,³ Article II of Republic Act No. 9165 or the

* Per Special Order No. 1460 dated 29 May 2013.

** Per Special Order No. 1461 dated 29 May 2013.

¹ Penned by Associate Justice Pampio A. Abarintos with Associate Justices Josefina Guevara-Salonga and Stephen C. Cruz, concurring. *Rollo*, pp. 2-20.

² Penned by Judge Abraham B. Borreta. *CA rollo*, pp. 13-18.

³ 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.

Comprehensive Dangerous Drugs Act of 2002, thereby, sentencing her to suffer the penalty of life imprisonment and ordering her to pay a fine of ₱1,000,000.00.

In an Information⁴ dated 19 January 2007, appellant Mylene Torres y Cruz was charged with violation of Section 5, Article II of Republic Act No. 9165, docketed as Criminal Case No. 15342-D, the accusatory portion of which reads:

On or about [17 January 2007], in Pasig City and within the jurisdiction of this Honorable Court, [herein appellant], did then and there willfully, unlawfully and feloniously **sell, deliver and give away** to PO1 Jayson Rivera, a police poseur[-]buyer, **one (1) heat-sealed transparent plastic bag containing 0.04 gram of white crystalline substance**, which was **found positive to the test for methylamphetamine hydrochloride**, a dangerous drug, in violation of the said law.⁵ (Emphasis supplied).

On arraignment, appellant, with the assistance of counsel *de officio*, pleaded NOT GUILTY⁶ to the crime charged.

At the pre-trial conference, the parties stipulated on the following: (1) the existence and due execution of the Request for Laboratory Examination⁷ and the Forensic Chemist Report⁸ with the qualification made by the defense that the *shabu* alleged to be the subject thereof was not taken from appellant, and if ever it was taken from her, the same was illegally obtained; (2) the existence and due execution of the Joint Affidavit of Arrest;⁹ and (3) the specimen described in the Request for Laboratory Examination was the same specimen submitted to the crime laboratory for examination, which yielded positive result for *methylamphetamine hydrochloride*, but without admitting that the forensic chemist had knowledge as to its origin or that it came from appellant.¹⁰

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 [or] such transactions.

⁴ CA *rollo*, pp. 9-10.

⁵ Id. at 9.

⁶ As evidenced by the Certificate of Arraignment and RTC Order both dated 14 February 2007. Records, pp. 18 and 20.

⁷ Exhibit "A." Id. at 36.

⁸ Exhibit "B." Id. at 37.

⁹ Exhibit "C." Id. at 38-39.

¹⁰ Per RTC Order dated 21 March 2007. Id. at 26-27.

There being no other facts proposed for further stipulation between the parties, the pre-trial conference was terminated and trial on the merits thereafter ensued.

The prosecution presented as witnesses Police Inspector 1 Jayson Rivera (PO1 Rivera) and PO1 Jeffrey Male (PO1 Male), who were the designated *poseur*-buyer and immediate back-up officer, respectively, in the buy-bust operation conducted against appellant. Both are members of the Philippine National Police (PNP) assigned at the Eastern Police District, District Anti-Illegal Drugs Special Operation Task Force (DAIDSOTF), Pasig City.

The evidence for the prosecution reveals the following facts:

While on duty at DAIDSOTF on 17 January 2007, PO1 Rivera received information from an unidentified caller that a certain Mylene, who turned out later to be the appellant, was engaged in the sale of dangerous drugs in Pinagbuhatan, Pasig City. On the basis thereof, the police conducted surveillance and casing operation with a positive result. Thereafter, a team was formed to conduct a buy-bust operation, which was composed of PO1 Rivera (*poseur*-buyer), PO1 Male (immediate back-up officer), a certain Senior Police Officer 1 Bautista, PO2 Floriano Resco, PO2 Michael Familara, Police Senior Inspector Glade Esguerra (PS/Insp. Esguerra - team leader) and the confidential informant. The buy-bust money of two 100-peso bills¹¹ was given to PO1 Rivera. A Pre-Operation Report/Coordination Sheet¹² was also prepared and sent to the Philippine Drug Enforcement Agency (PDEA) for compliance with the required coordination.¹³

At around 3:00 p.m., the team proceeded to the target area, *i.e.*, appellant's house in Baltazar St., Pinagbuhatan, Pasig City, on board two tricycles and two motorcycles. On arrival, they parked their vehicles five meters away from appellant's house. Then, PO1 Rivera and the confidential informant went ahead to appellant's house while the rest of the buy-bust team strategically positioned themselves nearby. Upon reaching appellant's house, the confidential informant immediately identified appellant. Right away, PO1 Rivera, together with the confidential informant, approached appellant saying: "*Iiskor ako panggamit*" to which the latter replied: "*Oo*

¹¹ Exhibit "F" (100-peso bill with Serial No. GZ833513) and Exhibit "F-1" (100-peso bill with Serial No. SN147653). *Id.* at 41.

¹² Exhibit "D." *Id.* at 40.

¹³ Testimony of PO1 Rivera, TSN, 25 April 2007, pp. 2-6; Testimony of PO1 Male, TSN, 13 June 2007, p. 3.

pards meron ako.”¹⁴ PO1 Rivera then gave to appellant the ₱200.00 buy-bust money and the latter, in turn, handed to the former the one heat-sealed transparent plastic sachet containing white crystalline substance. Thereupon, PO1 Rivera scratched his head, which was the agreed pre-arranged signal that the sale was consummated, grabbed appellant, introduced himself to her as a police officer and apprised her of her violation. At this juncture, PO1 Male, who was just seven to eight meters away from the target area and witnessed the sale, rushed to the scene and assisted PO1 Rivera in arresting appellant.¹⁵ PO1 Male then recovered from appellant the buy-bust money. PO1 Rivera, on the other hand, remained in possession of the one heat-sealed transparent plastic sachet containing white crystalline substance subject of the sale. PO1 Rivera and PO1 Male, together with the rest of the buy-bust team, subsequently brought appellant and the confiscated item to their office where appellant was further investigated.¹⁶

At their office, PO1 Rivera placed a scotch tape and put his initials “JLR” on the one heat-sealed transparent plastic sachet subject of the sale and turned it over to the investigator.¹⁷ A Request for Laboratory Examination of the said specimen was prepared. The request and the specimen were brought to the crime laboratory for examination.¹⁸ Police Senior Inspector Isidro L. Carino (PS/Insp. Carino), Forensic Chemical Officer of the PNP Crime Laboratory, Eastern Police District Crime Laboratory Office, examined the specimen. It tested positive for *methylamphetamine hydrochloride* or *shabu*.¹⁹

For its part, the defense presented appellant and Flordeliza De Vera (Flordeliza), daughter of appellant’s live-in partner, whose testimonies consisted of bare denials. Their version of what transpired on 17 January 2007 is as follows:

Between 2:00 p.m. to 3:00 p.m. of 17 January 2007, appellant was sleeping at the second floor of her house located in Baltazar St., Pinagbuhatan, Pasig City. At around 3:00 p.m., appellant was suddenly awakened by a commotion coming from the stairs. Upon checking, appellant saw armed police officers inside her house. The police simply

¹⁴ Id. at 6-7; Id. at 3-4.

¹⁵ Appellant’s arrest was also evidenced by the Joint Affidavit of Arrest executed by PO1 Rivera and PO1 Male (Exhibit “C”), as well as by the Arrest and Booking Report. Records, pp. 38-39.

¹⁶ Testimony of PO1 Rivera, TSN, 25 April 2007, pp. 7-9; Testimony of PO1 Male, TSN, 13 June 2007, pp. 4-5.

¹⁷ Id. at 9-10; Id. at 6.

¹⁸ Id.; Id. at 6 and 16.

¹⁹ Per Physical Sciences Report No. D-63-07E (Exhibit “B”). Id. at 37.

ignored her and, instead, began to search the place. Though nothing was found in appellant's possession, the police officers still frisked her and invited her to the police station. Upon reaching the police station, appellant was incarcerated. When asked for the reason why so, the police officers, in turn, asked appellant for the whereabouts of a certain Allan, who is known for selling *shabu*. Appellant denied that she knew such person. She was then brought to the crime laboratory and subjected to a drug test. The result was not made known to her.²⁰

Appellant's narration was corroborated by Flordeliza on all material points. She testified that at around 3:00 p.m. of 17 January 2007, she was at the ground floor of their house (in the yard) washing clothes. Appellant was sleeping on the second floor of their house, together with her one-year old daughter. While doing the laundry, five police officers (four male and one female) suddenly barged inside their house, went upstairs and searched the place. Afterward, the police officers brought appellant with them. Flordeliza was similarly invited by the police officers to go with them but appellant told the police about her one-year old daughter. The police officers brought with them only the appellant. Flordeliza affirmed that when the police officers went to their house and took appellant, they were looking for a certain Allan.²¹

Giving credence to the testimonies of the prosecution witnesses as having established with competent and convincing evidence all the elements of the crime charged, the trial court rendered a judgment of conviction against appellant in its Decision dated 17 August 2007, the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered finding the [herein appellant] **MYLENE TORRES y Cruz GUILTY** beyond reasonable doubt of the offense charged in the Information and she is sentenced to suffer **LIFE IMPRISONMENT**. She is also ordered to pay a fine of **ONE MILLION PESOS[.]**²² (Emphasis supplied).

On appeal,²³ appellant submitted the following assigned errors:

²⁰ Testimony of Appellant, TSN, 1 August 2007, pp. 3-8.

²¹ Testimony of Flordeliza De Vera, id. at 11-13.

²² CA *rollo*, p. 17.

²³ Per Notice of Appeal dated 24 August 2007. Id. at 25.

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE [HEREIN APPELLANT] DESPITE THE FAILURE TO COMPLY WITH SECTION 21 OF REPUBLIC ACT NO. 9165.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE [APPELLANT] OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.²⁴

In a Decision dated 11 February 2010, the Court of Appeals affirmed *in toto* the Decision of the trial court. It held that all the elements of the crime charged, *i.e.*, illegal sale of drugs, have been proven and established beyond reasonable doubt by the prosecution. The same was coupled with the presentation in court of *corpus delicti* as evidence. It also found the prosecution witnesses' testimonies sufficient to establish the various links in the chain of custody of the seized prohibited drug. This, despite the police officers' failure to take photographs and to inventory the drug seized from appellant, the prosecution was able to preserve the integrity and evidentiary value of the illegal drug. The police officers were found not to have any motive other than their duty to enforce the law.

Appellant is now before this Court contending that the police officers did not comply with the mandatory procedure for handling dangerous drugs set forth in Section 21 of Republic Act No. 9165, particularly the physical inventory and the taking of photograph of the seized item; and that the prosecution failed to prove beyond reasonable doubt that the one-heat sealed transparent plastic sachet containing white crystalline substance that was admitted in evidence during trial was the same item seized from her during the buy-bust operation. Such gap in the chain of custody of the seized item created reasonable doubt on appellant's culpability, thus, merits her acquittal from the crime charged.

Appellant's contentions fail to persuade.

To begin with, it is a fundamental principle that findings of the trial courts which are factual in nature and which involve the credibility of witnesses are accorded respect when no glaring errors; gross misapprehension of facts; and speculative, arbitrary and unsupported conclusions can be gathered from such findings.²⁵ This is so because the

²⁴ *Rollo*, p. 8.

²⁵ *People v. Santos*, G.R. No. 176735, 26 June 2008, 555 SCRA 578, 592.

trial court is in a unique position to observe the witnesses' demeanor on the witness stand.²⁶ The above rule finds an even more stringent application where said findings are sustained by the Court of Appeals,²⁷ like in the case under consideration.

In a catena of cases, this Court laid down the essential elements to be duly established for a successful prosecution of offenses involving the illegal sale of dangerous or prohibited drugs, like *shabu*, under Section 5, Article II of Republic Act No. 9165, to wit: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and payment therefor.²⁸ Briefly, the delivery of the illicit drug to the *poseur*-buyer and the receipt of the marked money by the seller successfully consummate the buy-bust transaction. What is material, therefore, is the proof that the transaction or sale transpired, coupled with the presentation in court of the *corpus delicti*.²⁹

In this case, the prosecution successfully established all the above-mentioned elements beyond moral certainty. Prosecution witnesses PO1 Rivera and PO1 Male amply proved that a buy-bust operation actually took place. On the occasion thereof, appellant was caught red-handed delivering one-heat sealed transparent plastic sachet containing white crystalline substance to PO1 Rivera, the *poseur*-buyer, in exchange for ₱200.00. Being the *poseur*-buyer, PO1 Rivera unwaveringly and positively identified appellant in open court to be the same person who sold to him the aforesaid one-heat sealed transparent plastic sachet containing white crystalline substance for a consideration of ₱200.00.³⁰ The white crystalline substance contained in the one-heat sealed transparent plastic sachet handed by appellant to PO1 Rivera was examined and later on confirmed to be *methylamphetamine hydrochloride* or *shabu* per Physical Sciences Report No. D-63-07E dated 17 January 2007 issued by PS/Insp. Carino, Forensic Chemical Officer of the PNP Crime Laboratory, Eastern Police District Crime Laboratory Office. Upon presentation thereof in open court, PO1 Rivera duly identified it to be the same object sold to him by appellant.³¹

²⁶ *People v. Ariola*, 418 Phil. 808, 816 (2001).

²⁷ *People v. Gaspar*, G.R. No. 192816, 6 July 2011, 653 SCRA 673, 686.

²⁸ *People v. Bara*, G.R. No. 184808, 14 November 2011, 660 SCRA 38, 43; *People v. Gaspar*, id.; *People v. Cruz*, G.R. No. 187047, 15 June 2011, 652 SCRA 286, 298; *People v. Manlangit*, G.R. No. 189806, 12 January 2011, 639 SCRA 455, 463; *People v. Santos*, supra note 25 at 592-593.

²⁹ *People v. Bara*, id.; *People v. Cruz*, id.

³⁰ Testimony of PO1 Rivera, TSN, 25 April 2007, p. 8.

³¹ Id. at 10.

Undoubtedly, the prosecution established beyond reasonable doubt appellant's guilt for the offense of sale of *shabu* in violation of Section 5, Article II of Republic Act No. 9165.

Equally important in every prosecution for illegal sale of dangerous or prohibited drugs is the presentation in evidence of the seized drug as the *corpus delicti*. The identity of the prohibited drug must be proved with moral certainty. It must also be established with the same degree of certitude that the substance bought or seized during the buy-bust operation is the same item offered in court as exhibit.³² In this regard, paragraph 1, Section 21, Article II of Republic Act No. 9165 (the chain of custody rule) provides for safeguards for the protection of the identity and integrity of dangerous drugs seized,³³ to wit:

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.

The chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. In context, this would ideally cover the testimony about every link in the chain, from seizure of the prohibited drug up to the time it is offered in evidence, in such a way that everyone who touched the exhibit would describe how and from whom it was received, to include, as much as possible, a description of the condition in which it was delivered to the next link in the chain.³⁴

³² *People v. Cortez*, G.R. No. 183819, 23 July 2009, 593 SCRA 743, 762.

³³ *People v. Martinez*, G.R. No. 191366, 13 December 2010, 637 SCRA 791, 812.

³⁴ *People v. Cortez*, supra note 32 at 762.

The chain of custody is, however, not established solely by compliance with the prescribed physical inventory and photographing of the seized drugs in the presence of the enumerated persons. The Implementing Rules and Regulations³⁵ of Republic Act No. 9165 on the handling and disposition of seized dangerous drugs states:³⁶

x x x *Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]* (Italics, emphasis and underscoring supplied).

Clearly, what is essential is **“the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.”**³⁷

In the present case, as contrary to the claim of appellant, the totality of the evidence presented by the prosecution leads to an unbroken chain of custody of the confiscated item from appellant. Though there were deviations from the required procedure, *i.e.*, making physical inventory and taking photograph of the seized item, still, the integrity and the evidentiary value of the dangerous drug seized from appellant were duly proven by the prosecution to have been properly preserved; its identity, quantity and quality remained untarnished.³⁸

Notably, after the sale was consummated, that is, when appellant received the buy-bust money from PO1 Rivera and handed to the latter the one-heat sealed transparent plastic sachet containing white crystalline substance, the seized item remained in possession of PO1 Rivera until he

³⁵ 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.* – 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:

(a) The apprehending officer/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; 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 seized.

³⁶ *People v. Cortez*, supra note 32 at 763.

³⁷ *Id.* at 764.

³⁸ *People v. Bara*, supra note 28 at 45.

and the rest of the buy-bust team, together with the appellant, returned to their office. On arrival thereat, PO1 Rivera placed a scotch tape and put his initials on the one-heat sealed transparent plastic sachet containing white crystalline substance before turning it over to the investigator. Thereafter, a Request for Laboratory Examination of the one-heat sealed transparent plastic sachet containing white crystalline substance was prepared by the team leader of the buy-bust team, *i.e.*, PS/Insp. Esguerra. Such request, together with the one-heat sealed transparent plastic sachet containing white crystalline substance, was brought to the crime laboratory for qualitative analysis. PS/Insp. Carino, PNP Forensic Chemical Officer, received and examined the same, which yielded positive for *methylamphetamine hydrochloride* or “*shabu*.” Moreover, the one-heat sealed transparent plastic sachet containing white crystalline substance, which was found positive for *shabu*, was positively identified by PO1 Rivera in court to be the same item he confiscated from appellant.

As held in *People v. Bara*³⁹ citing *People v. Campomanes*:⁴⁰

Although Section 21(1) of [Republic Act] No. 9165 mandates that the apprehending team must immediately conduct a physical inventory of the seized items and photograph them, non-compliance with said section 21 is not fatal as long as there is a justifiable ground therefor, and as long as the integrity and the evidentiary value of the confiscated/seized items are properly preserved by the apprehending team. Thus, the prosecution must demonstrate that the integrity and evidentiary value of the evidence seized have been preserved.

We note that nowhere in the prosecution evidence does it show the “justifiable ground” which may excuse the police operatives involved in the buy-bust operation in the case at bar from complying with Section 21 of Republic Act No. 9165, particularly the making of the inventory and the photographing of the drugs and drug paraphernalia confiscated and/or seized. However, such omission shall not render accused-appellant's arrest illegal or the items seized/confiscated from him as inadmissible in evidence. In *People v. Naelga* [G.R. No. 171018, 11 September 2009, 599 SCRA 477], We have explained that what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items because the same will be utilized in ascertaining the guilt or innocence of the accused.

It must be stressed that said “justifiable ground” will remain unknown in the light of the apparent failure of the accused-appellant to challenge the custody and safekeeping or the issue of disposition and preservation of the subject drugs and drug paraphernalia before the RTC.
x x x.

³⁹ Supra note 28 at 46.

⁴⁰ G.R. No. 187741, 9 August 2010, 627 SCRA 494, 506-507.

It is also worth stressing that appellant raised the buy-bust team's alleged non-compliance with Section 21, Article II of Republic Act No. 9165 only on appeal. Failure to raise this issue during trial is fatal to the case of appellant, as this Court had succinctly explained in *People v. Sta. Maria*:⁴¹

The law excuses non-compliance under justifiable grounds. However, whatever justifiable grounds may excuse the police officers involved in the buy-bust operation in this case from complying with Section 21 will remain unknown, because appellant did not question during trial the safekeeping of the items seized from him. Indeed, the police officers' alleged violations of Sections 21 and 86 of Republic Act No. 9165 were not raised before the trial court but were instead raised for the first time on appeal. In no instance did appellant least intimate at the trial court that there were lapses in the safekeeping of seized items that affected their integrity and evidentiary value. Objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of objection. Without such objection he cannot raise the question for the first time on appeal.⁴²

As a final note, appellant's bare denial cannot prevail over the positive identification by PO1 Rivera that she is the same person who sold the *shabu* to him. For the defense of denial to prosper, appellant must adduce clear and convincing evidence to overcome the presumption that government officials have performed their duties in a regular and proper manner, which she failed to do. Furthermore, appellant failed to show any motive on the part of the buy-bust team to implicate her in a crime she claimed she did not commit. This Court has repeatedly held that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary suggesting ill-motive on the part of the police officers.⁴³ In this case there was none.

Under the law, the offense of illegal sale of *shabu* carries with it the penalty of life imprisonment to death and a fine ranging from Five Hundred Thousand Pesos (₱500,000.00) to Ten Million Pesos (₱10,000,000.00), regardless of the quantity and purity of the substance.⁴⁴ Reviewing the penalties imposed by the trial court, which was affirmed by the Court of Appeal, this Court finds them to be in order.

⁴¹ 545 Phil. 520 (2007) cited in *People v. Lazaro, Jr.*, G.R. No. 186418, 16 October 2009, 604 SCRA 250, 274 and *People v. Desuyo*, G.R. No. 186466, 26 July 2010, 625 SCRA 590, 609.

⁴² *People v. Sta. Maria*, id. at 534.

⁴³ *People v. Arriola*, G.R. No. 187736, 8 February 2012, 665 SCRA 581, 591.

⁴⁴ *People v. Desuyo*, supra note 41 at 609.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 03454 dated 11 February 2010 is hereby **AFFIRMED**. No Costs.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


ARTURO D. BRION
Associate Justice
Acting Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

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



ARTURO D. BRION

Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.



MA. LOURDES P. A. SERENO
Chief Justice