



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 193190

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

- versus -

**MARILYN SANTOS and
ARLENE VALERA,**
Accused-Appellants.

Promulgated:

NOV 13 2013

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DECISION

LEONARDO-DE CASTRO, J.:

The Court reviews the conviction of appellants Marilyn Santos y Desamero and Arlene Valera y Papera for the crime of illegal sale of *shabu* under Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The Regional Trial Court (RTC) of Muntinlupa City, Branch 204, adjudged appellants guilty of the above crime in its Judgment¹ dated June 19, 2008 in Criminal Case No. 06-394. The Court of Appeals affirmed the conviction in its Decision² dated November 10, 2009 in CA-G.R. CR.-H.C. No. 03493.

In an Information³ dated April 21, 2006, appellants were charged with the violation of the first paragraph of Section 5, Article II⁴ of Republic Act No. 9165, which was allegedly committed as follows:

¹ CA rollo, pp. 28-49; penned by Presiding Judge Juanita T. Guerrero.

² Rollo, pp. 2-34; penned by Associate Justice Jose L. Sabio, Jr. with Associate Justices Arcangelita M. Romilla-Lontok and Sixto C. Marella, Jr., concurring.

³ Records, p. 1.

⁴ 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 (₱500,000.00) to Ten million pesos (₱10,000,000.00) 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

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That on or about the 20th day [of] **April, 2006**, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, not being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to another Methylamphetamine Hydrochloride, a dangerous drug, weighing 297.76 grams contained in six (6) big heat-sealed transparent plastic sachets, in violation of the above-cited law.

When appellants were arraigned on May 10, 2006, they pleaded not guilty to the offense charged.⁵

At the trial of the case, the prosecution presented the testimonies of (1) Chief Inspector Lorna Ravelas Tria;⁶ (2) Senior Police Officer (SPO) 2 Marcelino Perez Male;⁷ and (3) Police Officer (PO) 2 Luisito Lopina Aninias.⁸ On the other hand, the defense presented the testimonies of (1) appellant Marilyn Santos;⁹ (2) appellant Arlene Valera;¹⁰ (3) Maricar D. Olbes;¹¹ and (4) Editha L. Valenciano.¹²

The relevant portions of the prosecution witnesses' testimonies are as follows:

Chief Inspector Lorna Ravelas Tria first took the witness stand for the prosecution. The parties stipulated that she was an expert forensic chemist and a regular member of the Philippine National Police (PNP) Crime Laboratory, particularly assigned with the Regional Crime Laboratory Office, Camp Vicente Lim, Calamba City, Laguna as of April 20, 2006. She testified that she conducted a qualitative examination of the drug specimens in this case by taking a representative sample of the white crystalline substance from each of the plastic sachets. The same tested positive for methamphetamine hydrochloride.¹³

PO2 Luisito Lopina Aninias testified that he was a member of the PNP assigned at the Philippine Drug Enforcement Agency (PDEA) CALABARZON Regional Office in Calamba City, Laguna. He stated that on April 19, 2006, a confidential informant came to their office at around 9:00 a.m., telling them that a certain Marilyn and Arlene were going to sell her 300 grams of *shabu* in the amount of ₱750,000.00. The informant stated that she already arranged the deal, which would take place any day along the

million pesos (₱10,000,000.00) 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 of such transactions.

⁵ Records, p. 20.

⁶ TSN, July 6, 2006.

⁷ TSN, September 22, 2006; TSN, November 15, 2006.

⁸ TSN, December 6, 2006; TSN, February 21, 2007.

⁹ TSN, March 22, 2007; TSN, June 7, 2007.

¹⁰ TSN, August 2, 2007.

¹¹ TSN, November 28, 2007; TSN, February 6, 2008.

¹² TSN, March 5, 2008; TSN, March 26, 2008.

¹³ TSN, July 6, 2006, pp. 5-9, 15-16.

vicinity of A. Bautista Street, Bayanan, Muntinlupa City. PO2 Aninias said that their team leader, Police Chief Inspector Julius Ceasar V. Ablang, formed a buy-bust team. PO2 Aninias was designated as the poseur-buyer, while SPO2 Male was to act as the back-up arresting officer. Their team leader then ordered them to conduct a casing and surveillance of the area where the buy-bust operation will take place. At 10:00 a.m. of that morning, PO2 Aninias, SPO2 Male and the informant went to A. Bautista Street, Bayanan, Muntinlupa City to survey the area. Upon returning to their office, they reported their findings and made a Pre-Operation Report.¹⁴

On April 20, 2006, the buy-bust team proceeded to the subject area at 8:45 a.m. Their team leader gave PO2 Aninias four pieces of five hundred peso bills. PO2 Aninias put the bills at the top of the boodle money and placed the same in a paper bag. To authenticate the genuine money, PO2 Aninias put his initials “LLA” on the five hundred peso bills. The team arrived in Bayanan, Muntinlupa City at 10:30 a.m. He, SPO2 Male and the informant rode a Toyota Revo, while the rest of the team rode in another vehicle, a Mitsubishi Adventure. When they reached the area, the police officers instructed the informant to fetch the person who would sell them the *shabu*. The informant alighted from the vehicle. After more or less thirty minutes, the informant returned together with two women. One was wearing a pink blouse and the other was wearing a white T-shirt.¹⁵ The one wearing a pink blouse carried a box. PO2 Aninias later came to know that the woman wearing a pink blouse was appellant Marilyn Santos, while the woman wearing a white T-shirt was appellant Arlene Valera. The informant invited the two women to go inside their vehicle and the latter obliged. The informant introduced PO2 Aninias as the buyer of drugs then she told the appellants that she would alight from the vehicle to serve as a lookout.¹⁶

Thereafter, Marilyn asked PO2 Aninias if he had the money and the latter gave a positive reply. PO2 Aninias got the paper bag containing the boodle money and flashed the same to the two women. He asked Marilyn where the drugs were and she immediately showed him the box containing six pieces of plastic sachets of *shabu*. Marilyn gave the box to PO2 Aninias and told him to hand the money to Arlene. PO2 Aninias gave the paper bag to Arlene and then removed his cap to signal to SPO2 Male that the transaction was already consummated. PO2 Aninias drew out his gun and told the women that they were being arrested for selling *shabu*. SPO2 Male gave a “missed call” to their team leader and the other members of the team arrived. PO2 Aninias marked the box containing the *shabu* by placing thereon the wording Exhibit “B,” his initials, his signature, and the date April 20, 2006. He also marked the six pieces of plastic sachets as Exhibits “A-1” to “A-6” and he wrote his signature and the date on each of the sachets.¹⁷

¹⁴ TSN, December 6, 2006, pp. 4-9.

¹⁵ Id. at 9-15.

¹⁶ Id. at 22-25.

¹⁷ Id. at 26-35.

After marking the items confiscated, the team went back to their office in Camp Vicente Lim in Calamba City, Laguna. The two suspects were investigated upon and the team accomplished a Booking Sheet and Arrest Report. They likewise made an inventory of the items recovered.¹⁸ The team also prepared requests for the physical and medical examination of the suspects, as well as a request for drug test. For the drug specimens, they prepared a request for laboratory examination. The drug specimens turned out positive for methylamphetamine hydrochloride. PO2 Aninias stated that he and SPO2 Male brought the confiscated drug specimens to the crime laboratory and the same were received by the forensic chemist.¹⁹

SPO2 Marcelino Perez Male also testified on the conduct of the buy-bust operation in this case. He stated that on April 19, 2006, their confidential informant told them that she had a drug deal with two women named Arlene and Marilyn.²⁰ Said individuals were based in Bayanan, Muntinlupa City. SPO2 Male and his team proceeded to the aforesaid place to conduct surveillance and they found the place suitable for a buy-bust operation. Afterwards, they went back to their office and planned the conduct of a buy-bust operation. He was the designated driver and the back-up arresting officer while PO2 Aninias was the poseur-buyer. The pre-arranged signal to communicate that the transaction was consummated was for PO2 Aninias to remove his bull cap. The marked money was also prepared, which consisted of four pieces of original ₱500.00 bills. PO2 Aninias placed his initials on the original bills.²¹

SPO2 Male related that the actual buy-bust operation took place on April 20, 2006. Aside from him, the buy-bust team was composed of their team leader P/Chief Inspector Ablang, PO2 Aninias, the confidential informant, SPO2 Lapitan, SPO2 Abalos, PO2 Llanes and PO1 Villanueva. They used a Toyota Revo and a Mitsubishi Adventure in going to the target place. Upon arrival at the target place, the informant alighted from the vehicle to contact the suspects. After about thirty minutes, the informant returned with two women. One was wearing a pink blouse, while the other was wearing a white T-shirt.²²

According to SPO2 Male, the informant and the two women boarded their vehicle. The informant introduced PO2 Aninias to the two women as the buyer of *shabu*. Afterwards, the informant disembarked from the vehicle to serve as a lookout. The two women asked PO2 Aninias if he had the money for the *shabu*. PO2 Aninias was then sitting in the passenger seat of the vehicle beside SPO2 Male, while the two women were in the middle seat. PO2 Aninias showed the women the boodle money placed inside a

¹⁸ Id. at 37.

¹⁹ Id. at 40-46.

²⁰ TSN, November 15, 2006, pp. 14-15.

²¹ TSN, September 22, 2006, pp. 8-13.

²² Id. at 18-21.

paper bag. The woman in white shirt showed PO2 Aninias the contents of the box she was carrying, which contained six plastic sachets containing white crystalline substance. She handed over the carton to PO2 Aninias, who, in turn, gave the paper bag containing the boodle money. PO2 Aninias then removed his baseball cap, which act was the pre-arranged signal to indicate that the transaction was consummated.²³

After the pre-arranged signal was executed, SPO2 Male immediately dialed the number of their team leader so the latter can assist in arresting the suspects. The police officers told the two women that the latter were being arrested for violating the provisions of Republic Act No. 9165. SPO2 Male later learned that the name of the woman wearing a pink blouse was Marilyn Santos, also known as Malyn, and the name of the woman wearing a white T-shirt was Arlene Valera.²⁴

After the arrest, the team went back to their office. There, they made an inventory of the items they confiscated. SPO2 Male said that he was present when the inventory was conducted. SPO2 Male and PO2 Aninias also executed their respective affidavits regarding the arrest of the suspects. They also accomplished a booking sheet report.²⁵

SPO2 Male stated that PO2 Aninias marked the confiscated evidence inside the vehicle upon the arrival of the backup officers. SPO2 Male said that he saw PO2 Aninias put the latter's initials LLA on the confiscated items that consisted of six pieces of plastic sachets, which contained white crystalline substance. PO2 Aninias was in possession of the said items from the time they were handed over up to the time they were brought to the office. SPO2 Male said that they made a request to the PNP Crime Laboratory for an examination of the drug specimens. Also, they made a request to the PNP Medical Service for the conduct of a physical check-up on the suspects, as well as a urine test for drug dependents. The request for laboratory examination turned out a positive result for methamphetamine hydrochloride.²⁶

On cross-examination, SPO2 Male clarified that *both* appellants talked to PO2 Aninias about the payment for the drugs. When PO2 Aninias showed them the boodle money inside the paper bag, appellants opened the carton box to show the contents thereof. After appellants handed over the drugs to PO2 Aninias, the latter removed his cap to indicate that the transaction had already been consummated.²⁷

The defense's version of the events, however, was in stark contrast to that of the prosecution's. They vehemently denied that a buy-bust operation

²³ Id. at 22-25.

²⁴ Id. at 26-30.

²⁵ Id. at 30-33.

²⁶ Id. at 36-41.

²⁷ TSN, November 15, 2006, pp. 22-24.

was ever conducted by the police in this case. As summarized in their Appellants' Brief,²⁸ appellants related that:

In the morning of 20 April 2006, appellant Marilyn Santos was in her house in Bayanan along Bautista Street, Muntinlupa City with her 24[-]year old daughter Maricar and her eight[-]year old grandson Carlo. At 8:00 in the morning of the same day, appellant Arlene Valera visited appellant Marilyn Santos together with the former's mother, brother, two nieces, one nephew and two friends. They were thus 11 in the house at that time. In the meantime, appellant Marilyn Santos asked her daughter Maricar to fetch an acquaintance of hers by the name of Winnie in the corner of Bautista Street and National Road as Winnie had earlier texted appellant Marilyn Santos. Maricar waited for Winnie for about 10 minutes. Winnie then arrived aboard a blue car together with three other persons. Maricar boarded the car to direct them to her house. Upon reaching the house, all of them alighted from the car except for the driver, a male in his thirties wearing a jersey and a baseball cap who Maricar would later learn to be police officer Luisito Aninias. Maricar invited the driver to go inside but the latter declined. Maricar, Winnie and Winnie's two companions entered the house.

Winnie was carrying two plastic bags. The first bag contained fruits and vegetables which Winnie handed to appellant Marilyn Santos. Appellant Marilyn Santos did not know what was inside the second bag. Then, around 10 to 11 am, (sic) while the people inside the house were talking, somebody bumped/"*bumalya*"/kicked the door. Six male persons wearing civilian clothes armed with long firearms entered the house. Appellant Marilyn Santos asked what they wanted and they replied that drugs were being sold in the house which Santos denied as she was not into that and she was merely entertaining visitors. Two of the six men stood guard and did not allow the people inside the house to move while the other four men, by themselves only, searched the house. The men did not have any search warrant. After ten minutes, the men returned to the sala carrying a box which they allegedly found in the premises and saying that drugs were indeed being sold in the house. The box was opened in their presence and contained therein was a plastic bag which contained white substance that looked like "*tawas*." They were then told to go with the men but appellant Marilyn Santos protested since the things found were not from them and were not even from inside the house. Despite Santos' protest, all the people inside the house were asked to go out and appellants Santos and Valera, together with Santos' daughter Maricar and the latter's eight[-]year old son were boarded inside a vehicle parked outside the house. They were not apprised of their rights.

Appellants Santos and Valera, together with Maricar and Carlo, were brought to the PDEA Office in Camp Vicente Lim, Canlubang, Calamba, Laguna. They were allowed to take a seat for about five minutes. Thereafter, they were taken inside a cubicle where there was a man in front of a computer. Appellant Marilyn Santos was called first to be investigated. She was asked regarding her personal circumstances. She was not asked whether she needed a lawyer. Next to be interviewed were appellant Valera followed by Maricar.

²⁸CA *rollo*, pp. 64-92.

Thereafter, the man left the room and so they just waited inside the cubicle. They were then asked if they wanted to eat which they answered in the negative. So they were told to wait for a media representative and a barangay official to arrive. Then, they were told by PO2 Aninias to go to the sala. There, Aninias placed on a table the things that were in the box and also three Php 500.00 bills. Aninias asked for another Php 500.00 bill from a woman, the latter then produced said bill which Aninias marked and placed on the table. Thereafter, appellants were required to change into orange uniforms and they were subsequently photographed. Then Maricar was asked to sign the Certificate of Inventory without the presence of any lawyer.

After the signing of the Certificate of Inventory, appellants, together with Maricar and her son, entered a cubicle near the kitchen where they waited for 30 minutes before SPO2 Male approached them and said that if they wanted to get out of the place then they should produce Php 300,000.00 each. Appellants answered that they could not produce such amount and in fact they had nothing to do with the incident, so Male told them to think about it. Male then left the room and informed Maricar that she could already leave. Eventually, Maricar left with her son. Fifteen minutes from the time Maricar left, PO2 Aninias and Male brought appellants to the laboratory where the urine samples were (sic) taken from them. They spent the night at a cell in PDEA.

The following day, the husband of Marilyn Santos arrived and he was also informed by Male to produce Php 300,000.00 for the release of his wife but Santos' husband replied that they did not have anything to do with what happened and they do not have Php 300,000.00 to produce. Appellants were then brought to the Office of Prosecutor Liban in the City Hall of Muntinlupa. There, Pros. Liban inquired from PO2 Aninias and SPO2 Male whether they had search warrants and warrants of arrest for appellants to which the police officers answered in the negative. Pros. Liban likewise inquired from the police officers why they conducted the operation against the appellants when it was already outside their jurisdiction to which the police officers answered that it was because somebody called them up. Thereafter, appellants were referred to the Public Attorney's Office (PAO), then they were subjected to inquest then finally, they were brought to the Tunasan jail.²⁹ (Citations omitted.)

On June 19, 2008, the RTC convicted appellants of the crime of selling of illegal drugs in this wise:

WHEREFORE, premises considered and finding the accused MARILYN SANTOS y DESAMERO and ARLENE VALERA y PAPER A **GUILTY** of violating Sec. 5 of the Comprehensive Dangerous Drugs Act of 2002 beyond reasonable doubt, they are sentenced to LIFE IMPRISONMENT and to suffer all the accessory penalties provided by law and to pay a fine of ONE MILLION PESOS (Php1,000,000.00) each with subsidiary imprisonment in case of insolvency.

The Branch Clerk of Court is directed to transmit the subject "shabu" contained in six (6) big transparent plastic sachets to the Philippine Drug Enforcement Agency for proper disposition.

²⁹ Id. at 66-70.

Accused MARILYN SANTOS and ARLENE VALERA are ordered committed to the National Corrections for Women or the Correctional Institute for Women until further orders.

The preventive imprisonment undergone by the accused shall be credited in their favor.³⁰

On appeal,³¹ the Court of Appeals, in its Decision dated November 10, 2009, affirmed the ruling of the RTC. The appellate court decreed:

WHEREFORE, the foregoing premises considered, the instant appeal is **DENIED**. The Decision of the Regional Trial Court of Muntinlupa City, Branch 204[,] in Criminal Case No. 06-394 convicting accused-appellants Marilyn Santos and Arlene Valera for violation of Section 5 of R.A. 9165 is **AFFIRMED**.³²

Appellants appealed their case to this Court.³³ As both parties no longer filed their respective Supplemental Briefs,³⁴ the Court will now consider the arguments invoked by the parties before the Court of Appeals.

The Ruling of the Court

Appellants argue that the RTC erred in finding them guilty of violating Section 5, Article II of Republic Act No. 9165 since the prosecution failed to prove all the elements of the crime beyond reasonable doubt.³⁵

Appellants contend that there was no proof that a sale of illegal drugs ever took place. They lament the fact that the RTC gave more credence to the prosecution's version of the facts, notwithstanding that the testimonies of PO2 Aninias and SPO2 Male contained purported inconsistencies on the following points:

- 1) Who between Marilyn Santos and Arlene Valera actually transacted with the poseur-buyer. According to Aninias, it was Marilyn who committed the overt acts constituting the sale of illegal drugs. Arlene's participation as a co-conspirator was her mere presence in the transaction. According to Male, however, it was Arlene who was drug pushing and Marilyn was merely an onlooker.
- 2) The kinds of vehicles used in the alleged entrapment. According to Aninias, the operatives used a Toyota Revo and a Mitsubishi Adventure while according to Male, the vehicles used were a Revo and an Isuzu Crosswind.

³⁰ Id. at 49.

³¹ Id. at 50.

³² *Rollo*, pp. 33-34.

³³ Id. at 35-37.

³⁴ Id. at 43-45 and 51-53.

³⁵ CA *rollo*, p. 71.

3) The kinds of boodle money used. According to Aninias, the boodle money consisted of photocopies of ₱1,000.00 and ₱500.00 bills as well as paper cut-outs from yellow pages which were already used several times in their operation. On the other hand, Male testified that the boodle money consisted of cut newspapers that had just been prepared for that transaction.

4) Who between Aninias and Male handcuffed the two appellants. According to Aninias, both he and Male had handcuffs but only one was used for both appellants and that it was Male who did the honors because Aninias was holding his gun and the drugs received from Marilyn. Male, on the other hand, claimed that it was Aninias who handcuffed the two appellants as he did not have any handcuff with him.

5) The distance of the parked vehicles from Marilyn's house. According to Aninias, the vehicle was parked 30 meters away while Male testified that it was only parked 10 meters away.

6) The number of officers who brought the confiscated items to the crime laboratory for examination. According to Aninias, both he and Male brought the items to the crime laboratory. Male insisted however that it was only Aninias who brought the items there.³⁶

The Court does not find merit in the appeal.

*People v. Hernandez*³⁷ teaches that “[t]o secure a conviction for **illegal sale** of *shabu*, the following essential elements must be established: (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 the payment thereof.” *People v. Nicolas*³⁸ adds that “[w]hat is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.”

In handing down its judgment of conviction against appellants, the RTC gave more credence to the testimonies of PO2 Aninias and SPO2 Male that appellants were caught *in flagrante delicto* of selling illegal drugs in a buy-bust operation. The RTC ruled that the inconsistencies pointed out by appellants did not destroy the credibility of the police officers' testimonies. The inconsistencies merely involved peripheral matters that did not totally cause damage to the declarations of the police officers, which the RTC found to be credible and consistent on material points. The RTC found that appellants acted in conspiracy with each other in the selling of *shabu* to PO2 Aninias as both appellants were present and actively participated in the sale. As regards the testimonies of the defense witnesses, the trial court deemed the same insufficient to refute the affirmative allegations of the police officers and the presumption of regularity in the performance of their official functions.

³⁶ Id. at 73-75.

³⁷ G.R. No. 184804, June 18, 2009, 589 SCRA 625, 635.

³⁸ 544 Phil. 123, 135-136 (2007).

The Court of Appeals also found credible the testimonies of PO2 Aninias and SPO2 Male, stating that the same corroborated each other on material points and established beyond reasonable doubt that the crime of illegal sale of dangerous drugs was indeed consummated. The appellate court added that, based on the conduct of appellants during the buy-bust operation, their actions collectively could not be interpreted to mean anything other than their eagerness to sell illegal drugs to the poseur-buyer.

The Court emphasized in *People v. Naquita*³⁹ that:

The issue of whether or not there was indeed a buy-bust operation primarily boils down to one of credibility. In a prosecution for violation of the Dangerous Drugs Law, a case becomes a contest of the credibility of witnesses and their testimonies. When it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals. (Citations omitted.)

We have examined the records of the case and we found no reason to depart from the factual findings of the RTC, as affirmed by the Court of Appeals, as regards the credibility of prosecution witnesses.

Appellants first point out the allegedly irreconcilable statements of PO2 Aninias and SPO2 Male as to who between appellants Marilyn and Arlene actually transacted with PO2 Aninias.

To begin with, PO2 Aninias stated in his direct examination that a confidential informant came to their office on April 19, 2006, informing them that she set up a drug deal involving a certain Marilyn and Arlene. SPO2 Male, in his cross-examination, stated this very same fact. Thus, at the outset, the police officers were already aware of the fact that they were about to deal with two female drug dealers.

Thereafter, according to PO2 Aninias, it was Marilyn who asked him if he had the money for the drugs and he replied in the affirmative. He then got the paper bag containing the boodle money and showed the same to both Marilyn and Arlene. When PO2 Aninias inquired about the drugs, *Marilyn* gave the box to him and she told him to give the money to Arlene. After PO2 Aninias handed the money to Arlene, he removed his cap to signal that the drug sale had already been completed. Upon the other hand, SPO2 Male testified during his direct examination that both Marilyn and Arlene asked PO2 Aninias if the latter had the money for the drugs. SPO2 Male also said

³⁹ G.R. No. 180511, July 28, 2008, 560 SCRA 430, 444.

that it was *Arlene* (the woman wearing a white T-shirt) who handed over the box containing the drugs to PO2 Aninias. In his cross-examination, however, SPO2 Male stated that it was “the suspects” that handed the box containing the drugs to PO2 Aninias.

To our mind, the above seemingly incompatible statements of PO2 Aninias and SPO2 Male did not destroy their credibility. Nor are these statements utterly irreconcilable as appellants would like this Court to believe. As to the sale transaction itself, the testimony of PO2 Aninias is of greater relevance considering that he was the poseur-buyer who dealt directly, *i.e.*, face to face, with appellants. PO2 Aninias stated in his cross-examination that he was seated at the passenger seat of their vehicle and his head was turned towards appellants while he was talking to them. On the other hand, SPO2 Male, who was sitting in the driver’s seat, merely listened to the conversation between PO2 Aninias and the appellants. SPO2 Male had no actual participation in the exchange of illegal drugs and boodle money.⁴⁰ His recollection of events might not be as precise as that of PO2 Aninias. Thus, PO2 Aninias was in a better position to testify on who handed to him the box containing the *shabu* and to whom he gave the boodle money. The variance in the statements of SPO2 Male as to the role(s) played by appellants does not detract from the fact that both accused were involved in the transaction with the poseur-buyer. Neither did the same mean that the police officers in this case were guilty of prevarication or otherwise in bad faith in their testimonies.

With respect to the other inconsistencies enumerated by appellants, the Court agrees with the rulings of the RTC and the Court of Appeals that the same pertain to insignificant and minor details that had nothing to do with the essential elements of the crime charged. As held in *People v. Madriaga*⁴¹ that:

Settled is the rule that discrepancies on minor matters do not impair the essential integrity of the prosecution’s evidence as a whole or reflect on the witnesses’ honesty. These inconsistencies, which may be caused by the natural fickleness of memory, even tend to strengthen rather than weaken the credibility of the prosecution witnesses because they erase any suspicion of rehearsed testimony. What is important is that the testimonies agree on the essential facts and that the respective versions corroborate and substantially coincide with each other to make a consistent and coherent whole. (Citations omitted.)

Brushing aside the alleged inconsistencies in the testimonies of the prosecution witnesses, the Court finds that the testimonial evidence of the prosecution duly established the fact that appellants sold to PO2 Aninias, the poseur-buyer, six heat-sealed transparent plastic sachets that contained white crystalline substance that later tested positive for *shabu*. Thus, the elements of the crime charged had been sufficiently established.

⁴⁰ TSN, February 21, 2007, p. 13.

⁴¹ G.R. No. 82293, July 23, 1992, 211 SCRA 698, 712-713.

Appellants next claim that the procedures for the custody and disposition of the alleged drug specimens, as mandated by Section 21 of Republic Act No. 9165, were not complied with. As such, the identity and integrity of the alleged seized drugs in this case had been seriously compromised. Other than the testimony of PO2 Aninias and SPO2 Male that the drug specimens were marked right after the buy-bust operation, appellants aver that the other requirements under the law were not complied with and the prosecution failed to proffer any valid reason therefor.

This argument likewise fails to persuade us.

Verily, Section 21, paragraph 1, Article II of Republic Act No. 9165 and Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165 provide the procedural guidelines that police officers must observe in the proper handling of seized illegal drugs in order to ensure the preservation of the identity and integrity thereof.

Section 21, paragraph 1, Article II of Republic Act No. 9165 reads:

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[.]

On the other hand, Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165, which implements said provision, stipulates:

(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 seizures;

Provided, further, that non-compliance with 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 of and custody over said items.

The Court notes, however, that appellants raised the issue of the police officers' non-compliance with the above provisions only in their appeal. The memorandum⁴² of the appellants before the RTC and the transcript of stenographic notes of this case did not contain any objections regarding the safekeeping and the integrity of the *shabu* seized from appellants on account of the failure of the police officers to maintain an unbroken chain of custody of said drugs. This lapse is fatal to appellants' case. As we have explained in *People v. Sta. Maria*⁴³:

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.

All told, appellants failed to convince this Court that the guilty verdict rendered by the RTC was unmerited. Thus, appellants' conviction must be upheld.

WHEREFORE, the Decision dated November 10, 2009 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03493 is hereby **AFFIRMED**. No costs.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

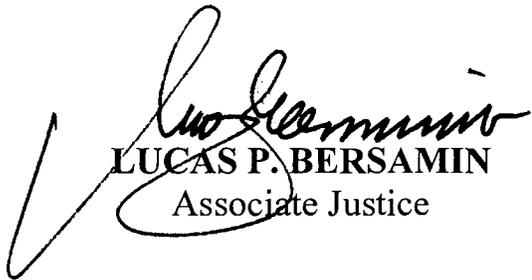
⁴² Records, pp. 238-272.

⁴³ 545 Phil. 520, 534 (2007).

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



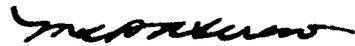
MARTIN S. VILLARAMA, JR.
Associate Justice



BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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