



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 205741

Present:

-versus-

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

REYMAN ENDAYA y LAIG,
Accused-Appellant.

Promulgated:

JUL 23 2014

X-----X

DECISION

PEREZ, J.:

For review of this Court is the 11 May 2012 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04872. The CA affirmed the conviction of Reyman Endaya y Laig (appellant) for the offenses of illegal sale and illegal possession of the prohibited drug methamphetamine hydrochloride or *shabu*, respectively punishable under Section 5 and Section 11, Article II of Republic Act (R.A.) No. 9165 (*Comprehensive Dangerous Drugs Act of 2002*).

Antecedents

¹ *Rollo*, pp. 2-23; Penned by Associate Justice Franchito N. Diamante with Associate Justices Michael P. Elbinias and Rodil V. Zalameda concurring.

Appellant was charged under two separate informations filed before the Regional Trial Court (RTC) of Lipa City, Branch 12, with violation of Section 5 and Section 11, Article II of R.A. No. 9165, committed as follows:

Criminal Case No. 0098-2003

That on or about the 20th day of November, 2002, at about 7:00 o'clock in the evening, at Barangay 2-A, Municipality of Mataasnakahoy, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully and unlawfully have in his possession, custody and control eight (8) small heat-sealed transparent plastic sachets each containing methamphetamine hydrochloride commonly known as "shabu", having a total weight of 0.32 gram, a dangerous drug.²

Criminal Case No. 0099-2003

That on or about the 20th day of November, 2002, at about 7:00 o'clock in the evening, at Barangay 2-A, Municipality of Mataasnakahoy, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully and unlawfully sell, deliver and give away one (1) small heat-sealed transparent plastic sachet containing methamphetamine hydrochloride commonly known as "shabu", weighing 0.04 gram, a dangerous drug.³

Prosecution's Version of the Events

On 11 November 2002, police operatives of Mataasnakahoy Police Station, acting on a report from a *barangay* official that appellant is involved in illegal drug activities, conducted surveillance operations on appellant. A week of surveillance confirmed the veracity of the report;⁴ hence, on 20 November 2002, a team, composed of SPO4 Moriel Benedicto (SPO4 Benedicto), SPO3 Nestor Babadilla (SPO3 Babadilla) and PO2 Edwin Chavez (PO2 Chavez), was formed to perform a buy-bust operation against appellant.⁵ A civilian asset, armed with five (5) pieces of ₱100.00 bills as marked money, acted as poseur-buyer.⁶

On board a car from Mataasnakahoy Police Station, the police operatives and the civilian asset proceeded to the place of operation: the

² Records of Criminal Case No. 0098-2003, p. 1.

³ Records of Criminal Case No. 0099-2003, p. 1.

⁴ TSN, 3 September 2003, pp. 5-6; Testimony of SPO4 Benedicto.

⁵ Id. at 8.

⁶ Records of Criminal Case No. 0098-2003, p. 301; Decision of the RTC.

Golden Luck Beer Garden located at *Barangay 2-A, Mataasnakahoy, Batangas*. At a distance of about ten (10) to fifteen (15) meters from the beer house, the civilian asset alighted from the vehicle and proceeded on foot to the establishment where appellant was a regular customer. In the meantime, the buy-bust team positioned themselves at a place outside the restaurant not far from where the civilian asset was. Appellant subsequently arrived and approached the civilian asset, who was standing in front of the beer house. The two talked for a while,⁷ after which, the police operatives saw the civilian asset hand the marked money to appellant who, in turn, handed something to the former which later turned out to be a plastic sachet containing *shabu*.⁸

After receiving the plastic sachet from appellant, the civilian asset made the pre-arranged signal of touching his head to signify that the transaction had been completed. The police officers then immediately approached appellant, introduced themselves as police officers and informed him that he is under arrest for selling *shabu*.⁹ Appellant was informed of his constitutional rights in Tagalog¹⁰ and then frisked by SPO3 Babadilla and PO2 Chavez for any deadly weapon. During this body search, SPO3 Babadilla recovered the marked money from appellant.¹¹ Meanwhile, the *shabu* subject of the sale between appellant and the civilian asset was handed by the latter to PO2 Chavez.¹²

Appellant was forthwith brought to the Mataasnakahoy Police Station where police officers again searched his body to look for an identification card.¹³ This body search yielded another eight (8) plastic sachets of *shabu*, found in his wallet by PO2 Chavez, who then marked them by writing a figure “8” on each plastic sachet.¹⁴ The *shabu* subject of the buy-bust operation, on the other hand, was marked by PO2 Chavez by writing the same figure “8” on the sachet but he added a distinctive mark by burning the edges of the plastic sachet to distinguish it from the other eight sachets confiscated from appellant.¹⁵

⁷ Id.

⁸ TSN, 3 September 2003, pp. 10-11; Testimony of SPO4 Benedicto and TSN, 1 September 2004, p. 7; Testimony of PO2 Chavez.

⁹ Id. at 11-12.

¹⁰ TSN, 1 September 2004, p. 8; Testimony of PO2 Chavez.

¹¹ TSN, 3 September 2003, pp. 12-13; Testimony of SPO4 Benedicto and TSN, 1 September 2004, p. 9; Testimony of PO2 Chavez.

¹² Id. at 14.

¹³ Id. at 13.

¹⁴ Id. at 14. See also TSN, 1 September 2004, pp. 9-10 and 19; Testimony of PO2 Chavez.

¹⁵ TSN, 1 September 2004, pp. 17-20; Testimony of PO2 Chavez.

The team thereafter conducted an inventory of the items seized from appellant in the presence of appellant, Clerk of Court Rogelio Binay of the Mataasnakahoy Municipal Trial Court, Municipal Counselor Renato Tiquiz, *Barangay* Captain Victorina Orosco, NGO representative Olivia Macariola, *Sangguniang Bayan* members Romeo Laqui and Oseña and media representative Virgo Santiago, who all signed the receipt of property seized.¹⁶ A photograph of appellant and the seized items, together with the aforementioned witnesses was taken at the police station.¹⁷ Finally, a letter-request for laboratory examination, together with the marked sachets, was transmitted to the Philippine National Police crime laboratory.¹⁸ The qualitative examination conducted on the specimens yielded positive results for methamphetamine hydrochloride or *shabu*.¹⁹

Version of the Defense

Appellant denied the charges against him. He claimed that at around 7:00 in the evening of 20 November 2002, he was at home in *Barangay* Nangkaan, Mataasnakahoy, Batangas, watching TV with his family. At around 9:00 in the evening, he left the house to go with a friend to the bus station in Lipa City to fetch his friend's sister. From the bus station, they proceeded to the Golden Luck Beer Garden.²⁰ While drinking beer inside the establishment, two police officers, one of whom was SPO4 Benedicto, approached appellant and invited him to go out with them to the police car.²¹ Appellant obliged, but as he was about to get into the car, SPO4 Benedicto punched him in the stomach and pushed him inside the car. SPO3 Babadilla and PO2 Chavez then joined them. It was then, according to appellant, when the police officers started their threats to kill him unless he reveals to them the name of the drug pusher in the area. In reply to their threats, appellant told them that he did not know anyone selling drugs.²²

Appellant alleged that they drove around the municipality of Mataasnakahoy, circling it three times before the police officers brought him to the police station. Before he was allowed to get off the car, SPO3 Babadilla took his wallet and left it in the car. At the police station, he was immediately put in jail but he was unable to ask the reason for his

¹⁶ TSN, 3 September 2003, pp. 14-17; Testimony of SPO4 Benedicto.

¹⁷ TSN, 14 January 2004, pp. 2-4; Testimony of SPO4 Benedicto, pp. 2-4. See also Exhibits "Q" and "R,"; Records of Criminal Case No. 0098-2003, pp. 245 and 246.

¹⁸ Records of Criminal Case No. 0098-2003, p. 249; Exhibit "T-1."

¹⁹ Id. at 248; Exhibit "T."

²⁰ Id. at 303; Decision of the RTC.

²¹ TSN, 27, July 2009, pp. 13-14; Testimony of Appellant.

²² Records of Criminal Case No. 0098-2003, p. 303; Decision of the RTC.

imprisonment because one of the police officers punched him again.²³ When he was subsequently taken out of his cell, the police officers led him to a table where they showed him plastic sachets containing *shabu* allegedly found in his wallet.²⁴ Thereafter, the police officers took photographs of him and the items supposedly seized from him, although he refused to be photographed. He was also made to sign a document, which later turned out to be the inventory of property seized, without allowing him to read the contents thereof and without the assistance of a counsel. Neither did the police officers inform him of his constitutional rights.²⁵

Appellant claimed that he did not file a case against the police officers because he was already incarcerated and, besides, he is ignorant of the procedure in the filing of cases.²⁶

The Ruling of the Trial Court

Finding that the prosecution was able to successfully prove the existence of the essential elements of illegal sale and illegal possession of dangerous drugs, the trial court rendered a Decision²⁷ dated 22 October 2010, the dispositive portion of which states:

WHEREFORE, PREMISES CONSIDERED, accused Reyman Endaya y Laig is convicted of the offenses charged in these cases for violation of Section 5 (paragraph 1) and Section 11 (paragraph 3), both of Article II of Republic Act 9165 and is hereby sentenced to suffer:

a) Section 11 – Imprisonment for a period of twelve (12) years and one (1) day as minimum to twenty (20) years as maximum and to pay a fine of P300,000.00 and;

b.) Section 5 – Life imprisonment and a fine of P500,000.00.²⁸

x x x

The Ruling of the Court of Appeals

The CA affirmed the judgment of the trial court upon a finding that the prosecution was able to establish, beyond reasonable doubt, all the

²³ Id.

²⁴ TSN, 27, July 2009, p. 18; Testimony of Appellant.

²⁵ Records of Criminal Case No. 0098-2003, p. 304, Decision of the RTC.

²⁶ Id.

²⁷ Id. at 298-306.

²⁸ Id. at 305.

elements of the crimes with which appellant was charged, and consequently, his guilt.

The CA brushed aside the attempt of appellant to assail the credibility of the witnesses for the prosecution, declaring that the inconsistencies in their respective testimonies, which appellant tried to amplify, are too minor to adversely affect their credibility. More importantly, the identity of the *corpus delicti* in this case was properly preserved and established by the prosecution, thereby ascertaining the guilt of appellant. The CA, thus, held:

The inconsistencies allegedly committed by [SPO4] Benedicto and [PO2] Chavez will not save [appellant] from conviction. To secure a reversal of the lower court's findings, the inconsistencies should have pertained to the actual buy-bust itself, that crucial moment when [appellant] was caught selling or in possession of shabu, not to peripheral matters. x x x

x x x x

To be sure, the discrepant statements alluded to by [appellant] were too minor to adversely affect the credibility of the witnesses. Those discrepancies did not detract from the established fact of the crimes charged against him. As the High Court held, inconsistencies in the testimonies of witnesses referring to minor details, and not in actuality touching upon the central fact of the crime, do not impair their credibility.

In view of all the foregoing, this [c]ourt finds that [appellant] failed to overthrow the presumption of regularity accorded the police officers in the performance of their official duty. He utterly failed to prove that in testifying against him, these witnesses were motivated by reasons other than the duty to curb the sale and possession of prohibited drugs and possession of drug paraphernalia. There is no proof of any ill motive or odious intent on the part of the police authorities to impute falsely such a serious crime to [appellant]. Thus, the [c]ourt will not allow the former's testimony to be overcome by self-serving defenses.

x x x x

This Court likewise finds no merit in [appellant's] contention that the prosecution failed to establish the *corpus delicti* of the offense. Testimonies of prosecution witnesses convincingly stated that the integrity and the evidentiary value of the seized items were properly preserved by them. [SPO4] Benedicto testified that he witnessed when their asset handed the shabu (which he bought from appellant) to [PO2] Chavez. Thereafter, he saw [PO2] Chavez put markings on them. [PO2] Chavez also attested that he marked the 1 sachet of shabu sold by [appellant] to their asset as well as the 8 sachets of shabu confiscated from [appellant]. They eventually prepared a request for laboratory examination. The Chemistry Report stated that all the specimens submitted by the

apprehending officers which bore the same markings gave positive result to the tests for the presence of Methamphetamine Hydrochloride.

It is thus evident that the identities of the *corpus delicti* were properly preserved and established by the prosecution. Besides, the integrity of the evidence is presumed to be preserved unless there is a showing of bad faith, ill-will, or proof that the evidence has been tampered with. [Appellant], in this case, has the burden to show that the evidence was tampered or meddled with to overcome a presumption of regularity in the handling of exhibits by public officers and a presumption that public officers properly discharged their duties. Needless to say, [appellant] failed to muster out such burden.

x x x x

WHEREFORE, the instant appeal is **DENIED**. The assailed October 22, 2010 Decision of the Regional Trial Court, Branch 12, Lipa City, in Criminal Cases Nos. 0098-2003 and 0099-2003 convicting Reyman Endaya y Laig for violations of Sections 5 and 11, Article II of Republic Act No. 9165, is hereby **AFFIRMED**. No costs.²⁹

In separate Manifestations dated 21 May 2013³⁰ and 13 June 2013,³¹ respectively, appellant and appellee manifested their intention not to file a supplemental brief before this Court and to adopt the respective briefs they filed before the CA.

The Issues

Appellant raised the following errors in his brief:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF VIOLATION OF SECTIONS 11 AND 5 OF R.A. NO. 9165 NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

²⁹ *Rollo*, pp. 11-22; Decision of the CA.

³⁰ *Id.* at 32-34.

³¹ *Id.* at 36-39.

II

THE TRIAL COURT GRAVELY ERRED IN ADMITTING THE RECEIPT FOR PROPERTY SEIZED WHICH THE ACCUSED-APPELLANT WAS FORCED TO SIGN IN VIOLATION OF HIS CONSTITUTIONAL RIGHTS.

III

THE TRIAL COURT GRAVELY ERRED IN ADMITTING THE SACHETS OF SHABU AS EVIDENCE AGAINST THE ACCUSED-APPELLANT.

Our Ruling

The appeal lacks merit; hence, we sustain the judgment of conviction.

I

Appellant's guilt for illegal sale and illegal possession of shabu was proven beyond reasonable doubt

The illegal sale of dangerous drugs is punishable under the first paragraph of Section 5 of R.A. No. 9165 as follows:

Section 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 of such transactions. (Emphasis supplied)

To secure a conviction for illegal sale of *shabu*, the following essential elements must be established: (1) the identities of the buyer and the seller, the object of the sale, and the consideration for the sale; and (2) the delivery of the thing sold and the payment therefor. What is material in the prosecution of an illegal sale of dangerous drugs is proof that the transaction

or sale actually took place, coupled with the presentation of the *corpus delicti* in court as evidence.³² The commission of illegal sale merely requires the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller. As long as a police officer or civilian asset went through the operation as a buyer, whose offer was accepted by the appellant, followed by the delivery of the dangerous drugs to the former, the crime is already consummated. In the case at bar, the prosecution has amply proven all the elements of the drug sale with moral certainty.³³

The records show that appellant was arrested in a legitimate buy-bust operation conducted after a week of surveillance. The police officers comprising the buy-bust team positively identified appellant as the one who sold the plastic sachet of *shabu* to their civilian asset who, in turn, handed the marked money to appellant. Both the sachet of *shabu* and the marked money were presented as evidence in court. SPO4 Benedicto narrated in detail the transaction during his testimony before the court. Thus:

X X X X

[PROSECUTOR] How was that preparation made to conduct a buy-bust operation?

[SPO4 BENEDICTO] We contacted our asset or informant so that he will be the one who will act as the buyer from Reyman Endaya.

Q: What will be used by your asset in buying shabu from Reyman Endaya?

A: We gave him marked money, sir.

Q: How much was the marked money given to your asset to be used in the buy-bust operation?

A: P500.00, sir.

Q: In what denomination?

A: Five (5) pieces of P100.00 bills.

X X X X

³² *People v. Bautista*, G.R. No. 177320, 22 February 2012, 666 SCRA 518, 529-530 citing *People v. Naquita*, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 449; *People v. Del Monte*, G.R. No. 179940, 23 April 2008, 552 SCRA 627, 637-638; and *People v. Santiago*, G.R. No. 175326, 28 November 2007, 539 SCRA 198, 212.

³³ *People v. Llanita*, G.R. No. 189817, 3 October 2012, 682 SCRA 288, 299 citing *People v. Unisa*, G.R. No. 185721, 28 September 2011, 658 SCRA 305, 324-325 further citing *People v. Gaspar*, G.R. No. 192816, 6 July 2011, 653 SCRA 673, 686.

Q: And in that buy-bust operation that you conducted x x x, you said that it was conducted around 6:00 o'clock in the evening x x x. Who were involved in this buy-bust operation?

A: SPO4 Moriel Benedicto, SPO2 Nestor Babadilla, and PO2 Edwin Chavez.

Q: What will be your participation, the three of you?

A: We stood as the back-up of the poseur-buyer, sir.

Q: And your poseur-buyer, what will be his participation?

A: He will be the one to act as the buyer of shabu to [sic] Reyman Endaya, sir.

x x x x

Q: And after your asset proceeded to that place, where did you position yourselves?

A: We hid in a place not far from the place where the asset was positioned.

x x x x

Q: And when [appellant] approached your asset, what transpired between your asset and Reyman Endaya if anything happened that time?

A: They talked for a while and as we could see it, they exchanged something, sir.

Q: Do you know what was given by your asset to Reyman Andaya?

A: Yes, sir.

Q: What was handed by your asset to Reyman Andaya?

A: He gave the money, sir.

Q: What money?

A: The marked money that we gave him, sir.

Q: How about Reyman Endaya? Do you know or do you have any inkling as to what he gave to your asset?

A: Yes, sir.

Q: What was your inkling about what Reyman Endaya gave to your

asset?

A: The shabu which our asset bought from him, sir.

Q: And after this exchange of marked money and the suspected shabu happened between your asset and Reyman Endaya, what was done by your asset if anything was done by him?

A: As we have previously arranged, he held his head as a sign that he has already purchased shabu, sir.

Q: And after getting or seeing this pre-arranged signal to signify that your asset had already bought shabu from Reyman Endaya, what action did you take?

A: We approached them and we introduced ourselves as policemen and we arrested him.³⁴

x x x x

The foregoing testimony was corroborated by PO2 Chavez on the witness stand:

[PROSECUTOR] What happened on that buy-bust operation that you conducted?

[SPO2 CHAVEZ] At 7:00 o' clock in the evening, Reyman Endaya arrived and during that time, our poseur buyer was already positioned and we did not hear their actual conversation but we saw when the poseur buyer handed the marked money to Reyman Endaya and Reyman Endaya in turn handed to our poseur buyer something and on [sic] that point, we saw our poseur buyer giving a signal to us which means that he had already bought the shabu from Reyman Endaya.

Q: Where were you when your asset who acted as poseur buyer and Reyman Endaya were [doing] this transaction?

A: We were hiding on [sic] a place which was near from [sic] the two, sir.

Q: How far were you actually from the two?

A: More or less five (5) meters, sir.

x x x x

³⁴

TSN, 3 September 2003, pp. 6-11; Testimony of SPO4 Benedicto.

Q: And when you saw your asset giving that signal, what did you do?

A: We ran towards them and we arrested Reyman Endaya for selling that shabu, sir.³⁵

On the other hand, the pertinent provisions of Section 11 of R.A. No. 9165 on illegal possession of dangerous drugs state that:

Section 11. *Possession of Dangerous Drugs.* - 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

For the successful prosecution of the crime of illegal possession of dangerous drugs, the following requisites must concur: (a) the accused was in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the drug.³⁶

The foregoing elements were likewise convincingly established herein. When the police operatives bodily searched appellant for his wallet

³⁵ TSN, 1 September 2004, pp. 7-8; Testimony of PO2 Chavez.

³⁶ *People v. Soriano*, G.R. No. 189843, 20 March 2013, 694 SCRA 168, 177 citing *People v. Bautista*, G.R. No. 177320, 22 February 2012, 666 SCRA 518, 529.

at the police station, they found eight (8) plastic sachets containing white crystalline substance which, upon laboratory examination, turned out to be *shabu*. The respective testimonies of SPO4 Benedicto and PO2 Chavez on the matter provide:

[PROSECUTOR] And after putting the person of Reyman Endaya under arrest and informing him of the cause of his arrest and his constitutional rights, what else did you do in [sic] the person of Reyman Endaya?

[SPO4 BENEDICTO] He was searched by our two companions, sir.

x x x x

Q: And did you come to know the result of this body search conducted by SPO3 Nestor Babadilla and PO2 Edwin Chavez?

A: My companion SPO3 Nestor Babadilla was able to recover the marked money worth P5,000.00 (sic) which Reyman was still holding.

Q: What else was recovered from the person of Reyman Endaya if anything else was recovered from him in the course of his body search?

A: In the place where we arrested him, those were the only items which we were able to recover from him, sir.

Q: Why? After that body search was conducted, did you recover anything else from Reyman Endaya in any other place?

A: When we brought him to the office, we recovered eight (8) plastic sachets of shabu in his wallet, sir.³⁷

[PROSECUTOR] How did it come about that you were able to recover eight (8) separate sachets of shabu from the wallet of Reyman Andaya when you were already at the police station?

[PO2 CHAVEZ] Upon arrival at the police station, we turned him over to the police investigator and we again searched his body and on [sic] his wallet, we found the eight (8) sachets of shabu, sir.³⁸

*Chain of custody unbroken;
identity of corpus delicti established
with moral certainty*

³⁷ TSN, 3 September 2003, pp. 12-13; Testimony of SPO4 Benedicto.

³⁸ TSN, 1 September 2004, p. 10; Testimony of PO2 Chavez.

Appellant argues that the arresting officers failed to comply with the requirements of Section 21, paragraph 1, Article II of R.A. No. 9165 on the inventory of the items seized from him. According to him, the inventory of the plastic sachet taken from him at the Golden Luck Beer Garden was not completed immediately after his arrest and at the place where he was arrested; the same sachet of *shabu* subject of the illegal sale was not marked at the time and place of his arrest, but only at the police station; and there was no representative from the Department of Justice as the government official present during the inventory was the Clerk of Court, who is a representative of the Supreme Court and not of the Department of Justice. He insists that no less than strict compliance with the provisions of R.A. No. 9165 is mandated by the law.

To ascertain that the illegal drugs presented in court are the ones actually seized from the accused, the prosecution must show that: (a) the prescribed procedure under Section 21(1), Article II of R.A. No. 9165 has been complied with or falls within the saving clause provided in Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of R.A. No. 9165; and (b) there was an unbroken link in the chain of custody with respect to the confiscated items.³⁹

Section 21, Article II of R.A. 9165 embodies the procedural safeguards intended to counter or prevent possible police abuses in cases of buy-bust operations. The provision provides, in part:

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:

(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;

³⁹ *People v. Angkob*, G.R. No. 191062, 19 September 2012, 681 SCRA 414, 424 citing *People v. Alivio*, G.R. No. 177771, 30 May 2011, 649 SCRA 318, 330.

Compliance with the foregoing provisions, “especially the required physical inventory and photograph of the seized drugs in the presence of the accused, the media, and responsible government functionaries, would be clear evidence that the police had carried out a legitimate buy-bust operation.”⁴⁰

The records of this case clearly show that the foregoing requirements were complied with.

As mandated by the above-quoted provision of law, the apprehending team conducted a physical inventory of the drugs confiscated from appellant, as evidenced by the “Receipt for Property Seized”⁴¹ which was signed by representatives from the municipal trial court, a non-governmental organization, the media, and three locally elected public officials, as proof that they were present when the inventory was carried out. Likewise, a photograph⁴² of the accused, together with the items seized from him, and with the aforementioned representatives from the public and private sector as witnesses, was taken at the police station. The physical inventory and taking of the photograph were done after the confiscated items were marked by PO2 Chavez. Finally, within 24 hours from the time the plastic sachets containing white crystalline substance were taken from appellant, the same were forwarded to the regional crime laboratory office for qualitative examination where the specimens tested positive for methamphetamine hydrochloride.⁴³

In view of the foregoing, the allegation of appellant that the apprehending officers failed to comply with the mandates of Section 21, particularly paragraph 1, of R.A. No. 9165 has no basis. In addition to this, jurisprudence states that “the phrase ‘marking upon immediate confiscation’ contemplates even marking at the nearest police station or office of the apprehending team.”⁴⁴ Hence, the fact that the seized plastic sachets were marked at the police station only does not deviate from the elements required in the preservation of the integrity of the seized drugs.

In any case, contrary to appellant’s claim, strict compliance with Section 21, Article II of RA 9165 is not necessary⁴⁵ “as long as the integrity

⁴⁰ *People v. Oniza*, G.R. No. 202709, 3 July 2013.

⁴¹ Records of Criminal Case No. 0098-2003, p. 8; Exhibit “A.”

⁴² Id. at 245; Exhibit “R.”

⁴³ Id. at 248; Exhibit “T.”

⁴⁴ *Marquez v. People*, G.R. No. 197207, 13 March 2013, 693 SCRA 468, 475.

⁴⁵ *People v. Bara*, G.R. No. 184808, 14 November 2011, 660 SCRA 38, 45 citing *People v. Domado*, G.R. No. 172971, 16 June 2010, 621 SCRA 73, 85 and *People v. Teodoro*, G.R. No. 185164, 22 June 2009, 590 SCRA 494, 507 further citing *People v. Naquita*, G.R. No. 180511,

and the evidentiary value of the seized items are properly preserved by the apprehending officer/team.” Elaborating on the provisions of R.A. No. 9165, Section 21 (a) of its IRR states:

(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.** (Emphasis supplied)

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 the evidentiary value of the seized items as they will be used to determine the guilt or innocence of the accused.’”⁴⁶

In *People v. Salonga*,⁴⁷ we held that “it is essential for the prosecution to prove that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit. Its identity must be established with unwavering exactitude for it to lead to a finding of guilt.”⁴⁸ That the substances which were sent to the crime laboratory and examined by the forensic chemical officer and found to be *shabu* were the very same substances which the police officers seized from appellant is proven by the following excerpts from the testimony of SPO4 Benedicto:

[PROS. SANDOVAL]

Mr[.] witness you said that aside from the

July 28, 2008, 560 SCRA 430, 445-446, *People v. Del Monte*, G.R. No. 179940, 23 April 2008, 552 SCRA, 627, 636, and *People v. Pringas*, G.R. No. 175928, 31 August 2007, 531 SCRA 828, 842-843.

⁴⁶ *People v. Mendoza*, G.R. No. 189327, 29 February 2012, 667 SCRA 357, 368 citing *Asiatico v. People*, G.R. No. 195005, 12 September 2011, 657 SCRA 443, *People v. Campomanes*, G.R. No. 187741, 9 August 2010, 627 SCRA 494, 507, and *People v. Concepcion*, G.R. No. 178876, 27 June 2008, 556 SCRA 421, 436.

⁴⁷ G.R. No. 186390, 2 October 2009, 602 SCRA 783, 795.

⁴⁸ *People v. Cardenas*, G.R. No. 190342, 21 March 2012, 668 SCRA 827, 835 citing *People v. Salonga*, *id.*

one heat sealed transparent plastic sachet which accused Reyman Endaya y Laig sold to your poseur buyer in the evening of November 20, 2002 you also recovered eight (8) other sachets of shabu from him after his arrest **if you will be shown these nine (9) plastic sachets of shabu can you identify the same?**

[SPO4 BENEDICTO] **Yes sir.**

Q: Can you distinguish in [sic] these nine (9) plastic sachets which one was the subject matter of the buy bust operation and which of those was taken from the possession of the accused after his arrest?

A: Yes sir

Q: How would you distinguish these specimens from each other?

A: My companion placed his markings on all the sachets sir.

Q: How about the one (1) plastic sachet which your poseur buyer was able to buy from Reyman Endaya has it any distinguishing mark also after his arrest?

A: There is a distinguishing mark sir.

Q: What was the distinguishing mark?

A: The sachet of shabu which was confiscated in [sic] the buy bust operation was marked by burning two ends of the plastic sachet, sir.

Q: If you will be shown this [sic] specimen[s] can you identify them?

A: Yes sir.

Q: x x x will you please look at these specimens Mr. Witness and tell this Honorable Court what relation has the specimens to the eight (8) plastic sachets that were confiscated from accused Reyman Endaya after his arrest?

A: These eight (8) sachets of shabu were confiscated when we searched him sir.

x x x x

Q: How about the plastic sachet which accused Reyman Endaya sold to your buyer in the buy bust operation?

A: **This sachet which was burned on both two (2) corners sir.**⁴⁹
(Emphasis supplied)

The foregoing narration was again supported by the statements of PO2 Chavez in his testimony dated 1 September 2004. Thus:

[PROSECUTOR] When you returned to the police station after conducting the buy-bust operation, do you know the whereabouts of that thing which was handed by Reyman Endaya to your poseur buyer?

[PO2 CHAVEZ] Yes, sir.

Q: Where was it?

A: It is in my possession, sir.

Q: When did you take custody of that?

A: When we arrested Reyman Endaya at the place of the incident, he handed it to me, sir.

Q: Who handed that thing to you?

A: The poseur buyer, sir.

Q: What is that thing?

A: The item which he was able to buy, the shabu, sir.

x x x x

Q: **How about the sachet of shabu which your asset was able to buy from Reyman Endaya and this sachet of shabu which was handed to you at the place of the buy-bust operation. Can you identify that?**

A: **Yes, sir.**

Q: **How about the other eight (8) sachets which you recovered from the wallet of Reyman Endaya at the police station. Can you identify those eight (8) sachets?**

A: **Yes, sir.**

x x x x

Q: **Can you tell the Court which one of these nine (9) sachets was**

⁴⁹ TSN, 12 November 2003, pp. 2-4; Additional direct testimony of SPO4 Benedicto.

the one bought by the poseur buyer from Reyman Endaya?

A: This one, sir. (Witness pointing to the sachet of shabu which was previously marked as Exhibit H.)

Q: Why are you sure that this is the one that was bought by your poseur buyer from Reyman Endaya?

A: I marked it and I burned a portion of the plastic sachet to distinguish this specimen from the other sachets of shabu which were confiscated from them [sic], sir.

Q: Which is the burned portion in this sachet, Mr. Witness?

A: Here, sir. (Witness pointing to the burned corner of the plastic sachet.)

x x x x

Q: How about the eight (8) sachets of shabu that were recovered by you from the wallet of Reyman Endaya when you were already at the police station. Can you recognize those eight (8) sachets of shabu?

A: Yes, sir.

Q: I am showing to you these eight (8) sachets of shabu previously marked as Exhibits "I," "J," "K," "L," "M," "N," "O" and "P" during the testimony of SPO4 Muriel Benedicto. What relation has those eight (8) sachets of shabu to those that you recovered from the wallet of Reyman Endaya?

A: Those are the shabu which I was able to confiscate from his wallet.

Q: Why do you say so?

A: Because of my initials, sir. (Witness pointing to the initials which appear to be a figure "8" on the eight (8) sachets of shabu.

Q: In this sachet of shabu which your asset was able to buy from Reyman Endaya, do you have any marking also here aside from the burned corner of the plastic sachet?

A: Yes, sir.

Q: What is that?

A: Here, sir. (Witness pointing to the marking which appears to be a

figure “8”).⁵⁰ (Emphasis supplied)

The foregoing testimonies categorically demonstrate that the evidence seized from appellant were the same ones tested, introduced, and testified to in open court. Both SPO4 Benedicto and PO2 Chavez were able to identify the drugs with certainty when these were presented in court. In short, there is no question as to the integrity of the evidence.⁵¹

Finally, in order to prove the unbroken chain of custody of the prohibited drugs confiscated from appellant, the respective testimonies of SPO4 Benedicto and PO2 Chavez establish that the plastic sachet subject of the illegal sale was handed over by the civilian asset acting as poseur buyer to PO2 Chavez while still at the crime scene. PO2 Chavez continued to be in possession of the same until they reached the police station where he accomplished the marking thereof. The eight sachets of shabu in the wallet of appellant, on the other hand, which were found by PO2 Chavez after bodily searching the former at the police station, were likewise marked by PO2 Chavez. Once marked, the items were turned over to the police investigator and thereafter, a letter-request together with the marked sachets was forwarded to the crime laboratory for examination where the substances inside the plastic sachets tested positive for *shabu*. These sachets, with their identifying marks still intact, were then presented in court.

Based on the foregoing, the CA correctly ruled that the chain of custody was unbroken, thereby ensuring the integrity of the *corpus delicti*. Unless appellant can show that there was bad faith, ill will, or tampering with the evidence, the presumption that the integrity of the evidence has been preserved will be upheld. It is incumbent upon appellant to show that the foregoing circumstances are attendant in this case to overcome the presumption that the police officers handled the seized drugs with regularity, and that they properly performed their duties.⁵² As the CA correctly found, appellant failed to discharge this burden.

II

Signature of appellant on “Receipt for Property Seized” inadmissible in evidence

⁵⁰ TSN, 1 September 2004, pp. 15-20; Testimony of PO2 Chavez.

⁵¹ *People v. Cardenas*, supra note 48, p. 842.

⁵² *People v. Mendoza*, supra, note 46, p. 369 citing *People v. Hernandez*, G.R. No. 184804, 18 June 2009, 589 SCRA 625, 647.

Appellant contends that he was not assisted by a lawyer when he signed the “Receipt for Property Seized;” therefore, the document cannot be admitted in evidence against him as his act of signing the same is a form of confession or admission.

We find merit in appellant’s contention. There is no showing in the records of this case that appellant was assisted by a counsel when he signed the “Receipt for Property Seized.”

It is settled that the signature of an accused in the receipt of property seized is inadmissible in evidence if it was obtained without the assistance of counsel. The signature of the accused on such a receipt is a declaration against his interest and a tacit admission of the crime charged;⁵³ hence, the constitutional safeguard must be observed.

Nevertheless, as aptly found by the CA, while it is true that appellant signed the receipt of property seized without the assistance of a counsel, the same only renders inadmissible the receipt itself.⁵⁴ Thus, according to the CA:

x x x the evidentiary value of the “Receipt of Property Seized” in the present circumstances is irrelevant in light of the ample evidence proving [appellant’s] guilt beyond reasonable doubt. As [w]e have earlier stated, the prosecution was able to prove that a valid buy-bust operation was conducted to entrap [appellant]. The testimonies of the arresting police officers clearly established [the illegal possession] and that the sale of shabu by [appellant] was consummated. The *corpus delicti*, which is the shabu, [were] presented in court and confirmed by the other members of the buy-bust team and they have acknowledged that they were the same drugs subject of that particular buy-bust operation [and subsequent body search on [appellant]].⁵⁵

III

Sachets of shabu not fruits of poisonous tree; hence, admissible in evidence against appellant

⁵³ *People v. Macabalang*, 538 Phil. 136, 162 (2006) citing *Juarez v. People*, 390 Phil. 805, 813 (2000) further citing *People v. Lacbanes*, 336 Phil. 933, 942 (1997); *People v. Bandin*, G.R. No. 104494, 10 September 1993, 226 SCRA 299, 303; *People v. Mirantes*, G.R. No. 92706, 21 May 1992, 209 SCRA 179, 186; *People v. Mauyao*, G.R. No. 84525, 6 April 1992, 207 SCRA 732, 740; *People v. De Las Marinas*, G.R. No. 87215, 30 April 1991, 196 SCRA 504, 510; *People v. De Guzman*, G.R. No. 86172, 4 March 1991, 194 SCRA 601, 605; *People v. Castro*, G.R. No. 106583, 19 June 1997, 274 SCRA 115, 122; and *People v. Morico*, 316 Phil. 270, 277 (1995).

⁵⁴ *Id.*

⁵⁵ *Rollo*, pp. 18-19; Decision of the CA.

Appellant continued to crave for acquittal claiming that, assuming without conceding that he had in fact sold and possessed the plastic sachets of *shabu*, they cannot be admitted in evidence for being fruits of a poisonous tree, having been obtained after an unlawful arrest and search.

Appellant's insistence on the illegality of his warrantless arrest lacks merit. Section 5, Rule 113 of the Rules of Court allows a warrantless arrest under any of the following circumstances:

Sec 5. Arrest without warrant, when lawful – A peace officer or a private person may, without a warrant, arrest a person:

- (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
- (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In this case, the arrest of appellant was effected under paragraph (a) or what is termed "*in flagrante delicto*."⁵⁶ For a warrantless arrest of an accused caught *in flagrante delicto* under paragraph (a) of the afore-quoted Rule, two requisites must concur: (1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.⁵⁷

Here, SPO4 Benedicto, SPO2 Babadilla, and PO2 Chavez personally witnessed the exchange between appellant and the poseur-buyer of the marked money and the plastic sachet containing a white crystalline substance which subsequently tested positive for *shabu*. At the time he was arrested, therefore, appellant was clearly committing a crime in full view of the buy-bust team. As held by the CA:

Because [appellant] had been caught *in flagrante delicto* by the apprehending police officers, they, as the arresting officers were duty-

⁵⁶ *People v. Mariano*, G.R. No. 191193, 14 November 2012, 685 SCRA 592, 606.

⁵⁷ *Ambre v. People*, G.R. No. 191532, 15 August 2012, 678 SCRA 552, 562 citing *People v. Chua*, 444 Phil. 757, 770 (2003).

bound to apprehend the culprit immediately and to search him for anything that may be used as proof of the commission of the crime. The search, being an incident of a lawful arrest, needed no warrant for its validity.⁵⁸

IV

Penalties

Pursuant to Section 5, Article II of R.A. No. 9165, the illegal sale of dangerous drugs is punishable by 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 or purity of the drug involved.

However, since the imposition of the death penalty has been prohibited by R.A. No. 9346,⁵⁹ only the penalties of life imprisonment and fine may be imposed.⁶⁰ The RTC and the CA, therefore, correctly imposed the penalties of life imprisonment and a fine in the amount of ₱500,000.00 on appellant in Criminal Case No. 0099-2003.

Illegal possession of dangerous drugs, on the other hand, is penalized under Section 11(3), Article II of R.A. No. 9165 with imprisonment of twelve (12) years and one day to twenty (20) years, plus a fine ranging from three hundred thousand pesos (₱300,000.00) to four hundred thousand pesos (₱400,000.00) if the quantity involved is less than five grams.

Herein appellant was charged with and found to be guilty of illegal possession of eight (8) plastic sachets of *shabu* having a total weight of 0.32 gram in Criminal Case No. 0098-2003. Following the provisions of R.A. No. 4103, otherwise known as the Indeterminate Sentence Law, as amended, “if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.”⁶¹ Hence, the RTC and the CA properly sentenced appellant to suffer imprisonment of 12 years and one day, as minimum, to 20 years, as maximum, and fined him ₱300,000.00,

⁵⁸ *Rollo*, p. 20; Decision of the CA.

⁵⁹ “An Act Prohibiting the Imposition of the Death Penalty in the Philippines,” approved by President Gloria Macapagal Arroyo on 24 June 2006.

⁶⁰ *People v. Padua*, G.R. No. 174097, 21 July 2010, 625 SCRA 220, 239.

⁶¹ Section 1, R.A. No. 4103.

since the said penalties are within the range of penalties prescribed by the law.⁶²

WHEREFORE, the appeal is **DISMISSED**. The Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 04872 dated 11 May 2012 is hereby **AFFIRMED**.

SO ORDERED.



JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:




ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

⁶² *People v. Padua*, supra note 60 at 239-240.

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.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified 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.



MARIA LOURDES P. A. SERENO
Chief Justice