



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 177158

Present:

- versus -

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

**LINDA ALVIZ y YATCO and
ELIZABETH DE LA VEGA y
BAUTISTA,**
Accused-Appellants.

Promulgated:

FEB 06 2013

X ----- X

DECISION

LEONARDO-DE CASTRO, *J.*:

On appeal is the Decision¹ dated September 27, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00489, which affirmed the Decision² dated December 7, 2004 of the Regional Trial Court (RTC), National Capital Judicial Region, Branch 103, Quezon City, in Criminal Case No. Q-03-114964, finding accused-appellants Linda Y. Alviz *aka* "Peking" (Linda) and Elizabeth B. de la Vega *aka* "Beth" (Elizabeth) guilty of violating Section 5, Article II of Republic Act No. 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

The Information³ charging both Linda and Elizabeth, filed before the RTC, reads:

That on or about the 4th day of Feb., 2003, in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping each other, not being authorized by law to sell, dispense,

¹ Rollo, pp. 2-11; penned by Associate Justice Marina L. Buzon with Associate Justices Regalado E. Maambong and Japar B. Dimaampao, concurring.

² Records, pp. 66-69; penned by Presiding Judge Jaime N. Salazar, Jr.

³ Id. at 1.

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deliver, transport or distribute any dangerous drug, did, then and there, willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point zero two (0.02) gram of methylamphetamine hydrochloride, a dangerous drug.

When arraigned on March 21, 2003, both Linda and Elizabeth pleaded not guilty to the crime charged and stipulated that they were arrested without a warrant of arrest.⁴

At the trial, the prosecution presented as witnesses Police Officer (PO) 2 Edsel Ibasco (Ibasco), the poseur-buyer, and Senior Police Officer (SPO) 4 Edgardo Reburiano (Reburiano), a member of the buy-bust team. The prosecution dispensed with the testimony of Forensic Analyst Leonard Jabonillo (Jabonillo), Chemist II of the Philippine National Police (PNP) Central Police District Crime Laboratory Office (CPDCLO), as the defense already admitted (1) the Memorandum⁵ dated February 4, 2003 of Police Inspector (P/Insp.) Oliver Magtibay Villanueva (Villanueva) requesting laboratory examination of a small heat-sealed transparent plastic sachet, containing an undetermined quantity of white crystalline substance, suspected as *shabu*; and (2) Chemistry Report No. D-198-2003⁶ prepared by Forensic Analyst Jabonillo stating that the examined specimen positively tested for methylamphetamine hydrochloride, a dangerous drug.⁷

Accused-appellants Linda and Elizabeth and Linda's daughter, Ronalyn Alviz (Ronalyn), took the witness stand for the defense.

The RTC promulgated its Decision on December 7, 2004, convicting and sentencing Linda and Elizabeth as follows:

ACCORDINGLY, judgment is hereby rendered finding both accused Linda Alviz y Yatco and Elizabeth dela Vega y Bautista **GUILTY** beyond reasonable doubt for drug pushing penalized under Section 5, Article II, R.A. 9165 and each is hereby sentenced to suffer **LIFE IMPRISONMENT** and to pay a fine of Five Hundred Thousand (₱500,000.00) Pesos.

The drug involved in this case weighing zero point zero two (0.02) gram is ordered transmitted to the Philippine Drug Enforcement Agency (PDEA) thru the Dangerous Drugs Board for proper disposition.⁸

Linda and Elizabeth appealed to the Court of Appeals which reviewed the parties' conflicting versions of the events of February 4, 2003, when Linda and Elizabeth were arrested.

The Court of Appeals summarized the evidence for the prosecution, as follows:

⁴ Id. at 16.

⁵ Id. at 10.

⁶ Id. at 8.

⁷ Id. at 29; RTC Order dated August 5, 2003.

⁸ Id. at 69.

The evidence for the prosecution shows that at about 4:00 o'clock in the afternoon of February 4, 2003, a confidential informant arrived at Police Station 1, La Loma, Quezon City and talked to the Officer-in-Charge. Thereafter, the Officer-in-Charge formed a team to conduct surveillance and buy-bust operations at Isarog Street, Sta. Teresita, Quezon City. PO2 Edsel Ibasco was designated as the poseur-buyer with SPO4 Edgardo Rebu[r]jiano and other policemen as back-up.

Upon arrival at Isarog Street, PO2 Ibasco and the confidential informant approached Linda Alviz outside her house. The confidential informant told Linda that PO2 Ibasco was deeply in need of *shabu*. Linda asked for the money and PO2 Ibasco gave a ₱100.00 bill on which he earlier placed his initials "EI." Linda called for Elizabeth dela Vega, who was inside the house, and the two talked. Elizabeth then went inside the house. After a while, Elizabeth came out and handed a plastic sachet to Linda. Linda gave the ₱100.00 bill to Elizabeth and the plastic sachet to PO2 Ibasco. PO2 Ibasco then gave the pre-arranged signal by scratching his head. SPO4 Rebu[r]jiano, who was only two (2) meters away, rushed to the group, arrested Elizabeth and recovered from the latter the buy-bust money, while PO2 Ibasco arrested Linda. The police officers brought Linda and Elizabeth to the police station. PO2 [Ibasco] placed the letters "EV-LA" on the plastic sachet containing white crystalline substance.

A request for laboratory examination of the white crystalline substance was made by the La Loma Police Station 1 to the PNP Central Police District Crime Laboratory Office (CPDCLO). Forensic Analyst Leonard M. Jabonillo submitted a Report stating that the qualitative examination conducted on the specimen gave positive result to methylamphetamine hydrochloride, a dangerous drug. The defense admitted the request for examination, the Report and the specimen, for which reason, the prosecution dispensed with the testimony of the Forensic Analyst.⁹ (Citations omitted.)

The appellate court similarly summed up the evidence for the defense, to wit:

Linda Alviz and Elizabeth dela Vega are sisters-in-law and reside in the same house at 17 Isarog Street, Sta. Teresita, Quezon City. They denied the accusations against them, claiming that they are vendors of native baskets.

Linda and Elizabeth tried to show that they and their children were on board a passenger jeepney on their way to Quintos Street to see a *magtatawas* because Linda's daughter was sick. Upon reaching Dr. Alejos Street, the jeepney was flagged down by two men in civilian clothes who asked them to alight. However, the jeepney driver and two (2) other passengers were not bothered by the two men. Linda, Elizabeth and their three children were asked to board a Ford Fiera and were taken to the police station. Linda and Elizabeth were frisked and Linda's ₱500.00, which was meant as payment to the *magtatawas*, and Elizabeth's ₱200.00 were taken by the two men, who turned out to be PO2 Ibasco and SPO4 Rebu[r]jiano. PO2 Ibasco and SPO4 Rebu[r]jiano told Linda and

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Rollo, pp. 3-5.

Elizabeth that they have *shabu*, which the two denied. Linda and Elizabeth were then brought to the Prosecutor's Office for inquest.

Ronalyn Alviz, the ten-year old daughter of Linda Alviz, corroborated the testimonies of her mother, Linda, and aunt, Elizabeth, that they were asked by two (2) men to alight from the passenger jeepney, boarded in another vehicle and brought to the police station. Linda and Elizabeth were detained while she, her younger brother, Allan, and cousin, Marlyn, were allowed to go home.¹⁰

In its Decision dated September 27, 2006, the Court of Appeals affirmed *in toto* the judgment of conviction of the RTC against Linda and Elizabeth. The appellate court found that the testimonies of PO2 Ibasco and SPO4 Reburiano were credible and deserved full faith and credit; that the defenses of denial and frame-up of Linda and Elizabeth could not prevail over their positive identification as the persons who sold a sachet of *shabu* for ₱100.00 to PO2 Ibasco during the buy-bust operation; that the defense failed to overcome the presumption of regularity in the police officers' performance of official duty as there was no proof establishing improper motive on the part of said police officers in effecting the arrest of Linda and Elizabeth, with the latter two even admitting that they did not know the police officers prior to their arrest; and that the police team properly observed the procedure outlined by Section 21 of Republic Act No. 9165.

Initially, both Linda and Elizabeth appealed before the Court. However, Linda executed a Motion for Withdrawal of Appeal on August 14, 2007.

The Resolution dated September 3, 2007¹¹ granted Linda's Motion for Withdrawal of Appeal, and the case insofar as she was concerned was considered closed and terminated. The judgment against Linda was accordingly recorded in the Book of Entries of Judgments on October 24, 2007.¹²

Now, only Elizabeth's appeal is left for consideration by the Court. In her Brief¹³ filed before the Court of Appeals, Elizabeth assigned the following errors purportedly committed by the RTC:

I

THE COURT A *QUO* GRAVELY ERRED IN NOT FINDING THAT THE ACCUSED-APPELLANTS WERE ILLEGALLY ARRESTED.

II

THE LOWER COURT GRAVELY ERRED IN GIVING CREDENCE TO THE INCONSISTENT STATEMENTS OF THE POLICE OFFICERS.

¹⁰ Id. at 5-6.
¹¹ Id. at 25-26.
¹² Id. at 31-32.
¹³ CA *rollo*, pp. 33-46.

III

THE LOWER COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTION 5, ARTICLE II OF REPUBLIC ACT 9165.¹⁴

There is no merit in the instant appeal.

Elizabeth insists that there was no buy-bust operation and what actually took place was an unlawful warrantless arrest. She claims that none of the circumstances justifying an arrest without a warrant under Rule 113, Section 5 of the Rules of Court¹⁵ was present. When she was arrested, she was neither committing nor was about to commit any crime, and she was not acting in any manner that would engender a reasonable ground to believe that she was committing a crime. Elizabeth argues that whatever evidence was obtained from her and Linda on occasion of their arrest is inadmissible being the fruit of a poisonous tree.

The People, represented by the Office of the Solicitor General (OSG), asserts that the warrantless arrest of Linda and Elizabeth was lawful because the police officers caught them *in flagrante delicto* selling *shabu* to PO2 Ibasco in exchange for ₱100.00.

As to which of the foregoing versions is more credible, given the evidence presented at trial by both parties, especially the witnesses' testimonies, the Court generally relies upon the assessment and factual findings of the RTC.

It is a fundamental rule that factual findings of the trial courts involving credibility are accorded respect when no glaring errors, gross misapprehension of facts, and speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds an even more stringent application where said findings are sustained by the Court of Appeals,¹⁶ such as in this case. The Court, therefore, has no reason to deviate from this rule.

¹⁴ Id. at 35.

¹⁵ 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 personal 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.

¹⁶ *People v. Concepcion*, G.R. No. 178876, June 27, 2008, 556 SCRA 421, 440.

Jurisprudence has identified the elements that must be established for the successful prosecution of illegal sale of dangerous drugs, *viz*: (1) the identity of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment for the same. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti*. The delivery of the contraband to the poseur-buyer and the receipt of the marked money consummate the buy-bust transaction between the entrapping officers and the accused. In other words, the commission of the offense of illegal sale of dangerous drugs, like *shabu*, merely requires the consummation of the selling transaction, which happens the moment the exchange of money and drugs between the buyer and the seller takes place.¹⁷

The RTC found, and the Court of Appeals eventually affirmed, that all these elements have been amply proven by the prosecution. The prosecution, through the detailed testimonies of PO2 Ibasco and SPO4 Reburiano, established that there was a consummated sale of *shabu* by Linda and Elizabeth to PO2 Ibasco during the buy-bust operation. The police officers' testimonies reveal that the buy-bust operation was planned and conducted following a report from a confidential informant (CI);¹⁸ PO2 Ibasco, accompanied by the CI, approached Linda outside the latter's house at Isarog St., Sta. Teresita, Quezon City; PO2 Ibasco pretended that he was looking for a "score;" Linda immediately demanded payment and PO2 Ibasco handed to her the ₱100.00 marked money; Linda called Elizabeth, who stepped out of the house; after a brief conversation between the two women, Elizabeth went inside the house to return with a plastic sachet of *shabu*; Elizabeth handed the sachet to Linda, who, in turn, handed the same to PO2 Ibasco; upon PO2 Ibasco's signal, the other members of the buy-bust team came forward and arrested Linda and Elizabeth; and SPO4 Reburiano recovered the marked money from Elizabeth. Forensic testing would subsequently confirm that the contents of the sachet from Linda and Elizabeth were indeed *shabu*. The defense was not able to impeach the police officers' testimonies.

There is little credence in Elizabeth's assertion that she and Linda were mere victims of a frame-up. As the Court declared in *People v. Capalad*¹⁹:

Charges of extortion and frame-up are frequently made in this jurisdiction. Courts are, thus, cautious in dealing with such accusations, which are quite difficult to prove in light of the presumption of regularity in the performance of the police officers' duties. To substantiate such defense, which can be easily concocted, the evidence must be clear and convincing and should show that the members of the buy-bust team were inspired by any improper motive or were not properly performing their

¹⁷ *People v. Arriola*, G.R. No. 187736, February 8, 2012, 665 SCRA 581, 591-592.

¹⁸ TSN, June 19, 2003, pp. 2-3.

¹⁹ G.R. No. 184174, April 7, 2009, 584 SCRA 717, 727.

duty. Otherwise, the police officers' testimonies on the operation deserve full faith and credit. (Citations omitted.)

In this case, there is absolute lack of evidence that the members of the buy-bust team were stirred by illicit motive or had improperly performed their duties in arresting Linda and Elizabeth. Both Linda and Elizabeth admitted that they did not know the police officers prior to their arrest. Hence, there could not have been any bad blood between them and said police officers.²⁰ The Court further quotes with approval the following observations of the RTC on the matter:

It is (sic) appears remote that the police officers, in so far as the circumstances obtaining in this case, could openly do the act being attributed to them by the accused. That, Ibasco and Reburiano, for no reason at all, would instantly flagged (sic) down a passenger jeepney and forcibly drag and then frisked (sic) some of its passengers, herein accused and their children, and thereafter, transferred them into another vehicle.

According to the accused, the incident happened at Alejos St., along Dapitan and it was about 4:00 p.m. while they were on their way to a "*magtatawas*" together with their children, on board a jeepney. They were together with three (3) other passengers and the driver. Considering the scenario described by the accused, the rest of the passengers who were likewise innocently seated would have also been the victim of the indiscriminate and rampant arrest of the police. But, to the court's surprise, these police officers, from the very own testimonies of the accused, spared their fellow passengers by allowing them to leave the area. This vital circumstance renders unbelievable the defense version in this case.

It is also the court's observation that if indeed the incident happened as it was demonstrated by the accused, certainly, a commotion should have taken place right there and then. The other passengers of the jeepney should have panicked or at least have sought the help of others but unfortunately, there was none. In fact, even Linda herself admitted that she did not bother to ask the reason why the police who were in civilian clothes, suddenly flagged down their vehicle. The speculation of Linda that the jeepney will be hired by those policemen is, to the mind of the court, an afterthought of a cock-and-bull story.

Aside from the incredulity of the testimonies of the accused, both accused made inconsistent statements, which are significant and material in nature. Accused Linda denied that the police conducted an investigation but according to Beth, both of them were asked questions by the police. Also, according to Beth, her daughter was crying when the police were arresting them but Linda made no allegation about it, which is very unusual and unnatural.²¹

The only other witness for the defense, presented to corroborate the testimonies of Linda and Elizabeth, was Ronalyn, Linda's daughter and

²⁰ *People v. Unisa*, G.R. No. 185721, September 28, 2011, 658 SCRA 305, 336.

²¹ Records, pp. 68-69.

Elizabeth's niece. However, the RTC did not give much weight to her testimony for the following reasons:

The Court finds the testimony of Ronalyn to be a mere sounding board of the testimonies of her mother and her auntie. The Court finds her testimony to be a rehearsed one in view of Ronalyn's demeanor while testifying. Her manner of testifying was significantly mechanical and unfeeling. There was no touch at all of a hurt emotion or color of disgust in her, were her version true.²²

As a result of the finding that a buy-bust operation actually took place and that Linda and Elizabeth were apprehended *in flagrante delicto*, the evidence gathered and presented by the prosecution on the occasion of their lawful arrest without warrant cannot be deemed as the "fruits of a poisonous tree," but are admissible and competent proof of their guilt.

Elizabeth also harps on purported contradictions and improbabilities in the testimonies of PO2 Ibasco and SPO4 Reburiano, specifically, as to: (1) the composition of the buy-bust team; (2) the existence of a pre-operation report and coordination with the Philippine Drug Enforcement Agency (PDEA); and (3) the markings made by PO2 Ibasco on the sachet of *shabu*.

The Court is not swayed. The inconsistencies adverted to by Elizabeth are trivial and insignificant and refer only to minor details. Time and again, the Court has steadfastly ruled that inconsistencies on minor and trivial matters only serve to strengthen rather than weaken the credibility of witnesses for they erase the suspicion of rehearsed testimony. Furthermore, the Court cannot expect the testimonies of different witnesses to be completely identical and to coincide with each other since they have different impressions and recollections of the incident. Hence, it is only natural that their testimonies are at variance on some minor details.²³ As this Court ruled in *People v. Madriaga*²⁴:

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.)

Indeed, in a prosecution for illegal sale of dangerous drugs, what is material is the proof that the accused peddled illicit drugs, coupled with the

²² Id. at 69.

²³ *People v. Santiago*, 465 Phil. 151, 161-162 (2004).

²⁴ G.R. No. 82293, July 23, 1992, 211 SCRA 698, 712-713.

presentation in court of the *corpus delicti*,²⁵ both of which were satisfactorily complied with by the prosecution in this case.

Finally, Elizabeth argues that the police officers blatantly ignored the mandatory provisions of Section 21, paragraph 1 of Republic Act No. 9165, particularly, the requirements on making an inventory report and taking photographs of the seized drugs in the presence of the accused or the latter's representative or counsel.

Once more, the Court is not swayed.

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

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[.] (Emphases supplied.)

The above rule is implemented by Section 21(a) of the Implementing Rules and Regulations which expounds on how it is to be applied, and notably, also provides for a saving mechanism in case the procedure laid down in the law was not strictly complied with:

(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**

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People v. Chua Tan Lee, 457 Phil. 443, 449 (2003).

void and invalid such seizures of and custody over said item[.]
(Emphasis ours).

The integrity and evidentiary value of seized items are properly preserved for as long as the chain of custody of the same are duly established. Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002, implementing Republic Act No. 9165, defines chain of custody as follows:

Chain of Custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

In *Malillin v. People*,²⁶ the Court discussed how the chain of custody of seized items should be established, thus:

As a method of authenticating evidence, 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. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same. (Citations omitted.)

In several cases, the Court found that the chain of custody of the seized drugs in a buy-bust operation had been sufficiently established when there was proof of the following: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.²⁷

Given the law, rules, and jurisprudence, the failure of the police officers to make an inventory report and to photograph the drugs seized from

²⁶ G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632-633.

²⁷ *People v. Jakar Mapan Le*, G.R. No. 188976, June 29, 2010, 622 SCRA 571, 583; *People v. Kamad*, G.R. No. 174198, January 19, 2010, 610 SCRA 295, 307-308; *People v. Denoman*, G.R. No. 171732, August 14, 2009, 596 SCRA 257, 272-275.

Linda and Elizabeth, as required by Article II, Section 21, paragraph 1 of Republic Act No. 9165, are not automatically fatal to the prosecution's case, as it was able to trace and prove the chain of custody of the same: after arresting Linda and Elizabeth during the buy-bust operation, the police officers brought the two women to the police station; at the police station, PO2 Ibasco, who acted as the poseur-buyer, marked the sachet of suspected *shabu* he received from Linda and Elizabeth during the buy-bust with his initials "EV-LA" and turned over the same to P/Insp. Villanueva; P/Insp. Villanueva prepared the Request for Laboratory Examination of the contents of the sachet; PO2 Ibasco delivered the Request for Laboratory Examination and the sachet of suspected *shabu* to the PNP Crime Laboratory, CPDCLC, Quezon City, where the Request and specimen were received by PO2 Plau; the contents of the sachet were examined by Forensic Analyst Jabonillo, who prepared Chemistry Report No. D-198-2003, confirming that the specimen tested positive for *shabu*;²⁸ and lastly, during the trial, the marked sachet of *shabu*, as well as the marked money used in purchasing the same, were presented as evidence and identified by PO2 Ibasco and SPO4 Reburiano.

All told, there is no reason for the Court to disturb the findings of the RTC, as affirmed by the Court of Appeals, that Elizabeth is guilty beyond reasonable doubt of illegal sale of dangerous drug, as defined and penalized under Article II, Section 5 of Republic Act No. 9165. According to said provision, "[t]he 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 or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as broker in any such transactions." Consequently, the penalty of life imprisonment and a fine of ₱500,000.00 imposed upon Elizabeth by the RTC and affirmed by the Court of Appeals are in accordance with law.

WHEREFORE, the instant appeal of Elizabeth de la Vega is **DENIED** and the Decision dated September 27, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00489 convicting her for violation of Article II, Section 5 of Republic Act No. 9165 is **AFFIRMED** *in toto*.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

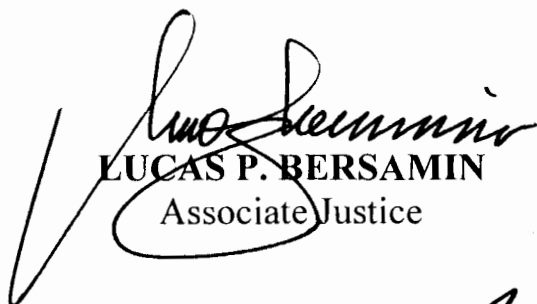
WE CONCUR:



MARIA LOURDES P. A. SERENO

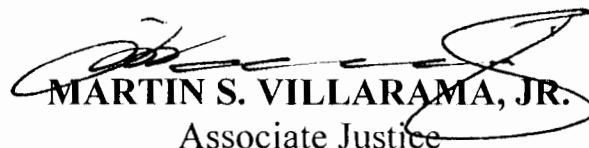
Chief Justice

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