Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

THE PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No 191726**
	Present:
- versus -	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR., and REYES, *JJ.*
	Promulgated:
NOEL BARTOLOME y BAJO, Accused-Appellant.	FEB 0 6 2013

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D E C I S I O N

BERSAMIN, *J.*:

A buy-bust operation has been recognized in this jurisdiction as a legitimate form of entrapment of the culprit. It is distinct from instigation, in that the accused who is otherwise not predisposed to commit the crime is enticed or lured or talked into committing the crime. While entrapment is legal, instigation is not.

This final appeal is taken by the accused from the decision promulgated on January 29, 2010,[1] whereby the Court of Appeals (CA) affirmed his conviction for illegal sale of methampethamine hydrochloride or *shabu* in violation of Section 5, Article II of Republic Act No. 9165 (*Comprehensive Dangerous Drugs Act of 2002*) handed down by the Regional Trial Court, Branch 120, in Caloocan City (RTC) through its decision dated July 12, 2006.[2]

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[1] *Rollo*, pp. 2-18; penned by Associate Justice Antonio L. Villamor (retired), and concurred in by Associate Justice Portia Aliño-Hormachuelos (retired) and Associate Justice Normandie B. Pizarro.

[2] CA *rollo*, pp. 12-22.

Antecedents

On August 13, 2003, the City Prosecutor's Office of Caloocan City charged the accused with illegally selling methamphetamine hydrochloride or *shabu* in violation of Section 5, Article II, of Republic Act No. 9165 through the information reading thus:

> That on or about the 10th day of August 2003 in Caloocan City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to PO1 Borban Paras, who posed as poseur buyer, one (1) heat sealed transparent plastic sachet containing 0.06 gram of Methylamphetamine Hydrochloride (shabu), knowing the same to be dangerous drug.
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> Contrary to Law.[3]

After the accused pleaded *not guilty*, trial ensued.

The evidence for the State was as follows.

On August 10, 2003, at around 1:00 a.m., an informant went to the Anti-Illegal Drugs Special Operations Unit (ADSOU) in Caloocan City to report the illicit drug dealings of the accused on Reparo Street, Bagong Barrio, Caloocan City. Acting on the report, Police Inspector Cesar Cruz of ADSOU immediately instructed some of his men to conduct a buy-bust operation against the accused. During the pre-operation briefing, the buy-bust team designated PO1 Borban Paras as the poseur-buyer. Paras was given a ₱100.00 bill that he marked with his initials *BP*. It was agreed that the informant would drop a cigarette butt in front of the suspect to identify him to Paras; and that Paras would scratch his head to signal to the buy-bust team that the transaction with the suspect had been consummated. The operation was coordinated with the Philippine Drug Enforcement Agency.

Upon arriving at the target area at around 2:00 a.m. of August 10, 2003, the team members positioned themselves in the vicinity of a store. The informant then approached a person who was standing in front of the store and dropped a cigarette butt in front of the person. Paras, then only two meters away from the informant, saw the dropping of the cigarette butt. Paras went towards the suspect and said to him: *Pre pa-iskor nga*. The suspect responded: *Pre, piso na lang tong hawak magkano ba kukunin mo?* Paras replied: *Ayos na yan, piso lang naman talaga ang kukunin ko*, after which he handed the marked ₱100.00 bill to the suspect, who in turn drew out a plastic sachet containing white substances from his pocket and gave

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[3] Records, p. 1.

the sachet to Paras. With that, Paras scratched his head to signal the consummation of the sale. As the other members of the team were approaching, Paras grabbed the suspect. PO3 Rodrigo Antonio, another member of the team, confiscated the marked ₱100.00 bill from the suspect, who was identified as Noel Bartolome *y* Bajo. Paras immediately marked the sachet at the crime scene with Bartolome's initials *NBB*.[4]

Insp. Cruz later requested in writing the PNP Crime Laboratory in Caloocan City to conduct a laboratory examination of the contents of the plastic sachet seized from Bartolome.[5] PO2 Rolando De Ocampo, another member of the buy-bust team, brought the request and the sachet and its contents to the laboratory. In due course, Forensic Chemical Officer Jesse Abadilla Dela Rosa of the PNP Crime Laboratory confirmed in Physical Science Report No. D-1038-03 that the plastic sachet contained 0.06 gram of methamphetamine hydrocholoride or *shabu*, a dangerous drug.[6]

On his part, the accused claimed that the arresting officers had framed him up because they wanted to extort a substantial amount from him in exchange for his release. The version of the accused tended to show the following.

On August 9, 2003, at about 12:00 in the afternoon, the accused went to his brother's house located on Zapote Street, Bagong Barrio, Caloocan City, to take a rest from his work as a construction worker. While he and his brother were watching the television show *Eat Bulaga* inside the house, two policemen suddenly entered the house. One of the policemen, whom the accused later identified as PO3 Antonio, frisked the accused but spared his brother because the latter was asthmatic. The policemen then brought the accused to the police station and detained him. At the police station, PO3 Antonio inquired from the accused if he was selling *shabu*, but the accused denied doing so. It was then that PO3 Antonio demanded ₱20,000.00 from the accused in exchange for his freedom. The accused refused to pay because he did not have the money.[7]

Ruling of the RTC

As stated, the RTC convicted Bartolome of the crime charged,[8] to wit:

> WHEREFORE, premises considered, the Court finds and so holds that accused NOEL BARTOLOME Y BAJO is GUILTY beyond reasonable doubt for violation of Section 5, Article II, Republic Act No.

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4 Id. at 82.
5 Id. at 83.
6 Id. at 84.
7 TSN, July 20, 2005, pp. 2-12.
8 *Supra* note 2.

9165 and imposes upon him the penalty of LIFE IMPRISONMENT and a fine of Five Hundred Thousand Pesos (Php500,000.00).

The one (1) piece of heat-sealed transparent plastic sachet containing 0.06 gram of Methylamphetamine Hydrochloride is hereby ordered confiscated in favor of the government to be turned over to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.

Ruling of the CA

On appeal, the accused assailed his conviction, stating:

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ASSUMING THAT THE ACCUSED-APPELLANT PARTICIPATED IN THE SELLING OF ILLEGAL DRUGS, THE TRIAL COURT GRAVELY ERRED IN CONVICTING HIM OF THE CRIME CHARGED SINCE HE WAS MERELY INSTIGATED BY THE POLICE INTO DOING IT.

II

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE POLICE'S FAILURE TO COMPLY WITH THE PROCEDURE IN THE CUSTODY OF SEIZED PROHIBITED AND REGULATED DRUGS PRESCRIBED UNDER THE IMPLEMENTING RULES AND REGULATION OF REPUBLIC ACT NO. 9165 WHICH CASTS SERIOUS DOUBT ON THE IDENTITY OF THE SEIZED DRUG CONSTITUTING THE CORPUS DELICTI OF THE OFFENSE.

The accused argued that the operation mounted against him was not an entrapment but an instigation, contending that without the proposal and instigation made by poseur buyer Paras no transaction would have transpired between them; that the police team did not show that its members had conducted any prior surveillance of him; and that the Prosecution should have presented the informant as a witness against him.

On January 29, 2010, the CA promulgated its assailed decision,[9] rejecting the assigned errors of the accused, and affirmed his conviction. It held that the operation against him was not an instigation but an entrapment, considering that the criminal intent to sell dangerous drugs had originated from him, as borne out by the *shabu* being inside his pocket prior to the transaction with Paras; that the accused did not show that Paras had any ill motive to falsely testify against him; that the conduct of a prior surveillance and the presentation of the informant as a witness were not necessary to establish the validity of the entrapment; and that the non-compliance by the buy-bust team with the requirements under Section 21 of the Implementing

9 *Supra* note 1.

Rules and Regulations for Republic Act No. 9165 (IRR) was not fatal because there was a justifiable ground for it, and because the apprehending team properly preserved the integrity and evidentiary value of the confiscated drugs.

Hence, the accused is now before the Court in a final bid for acquittal.

Ruling

The appeal lacks merit.

To establish the crime of illegal sale of *shabu*, the Prosecution must prove beyond reasonable doubt (*a*) the identity of the buyer and the seller, the identity of the object and the consideration of the sale; and (*b*) the delivery of the thing sold and of the payment for the thing. The commission of the offense of illegal sale of dangerous drugs, like *shabu*, requires simply the consummation of the selling transaction, which happens at the moment the buyer receives the drug from the seller. In short, what is material is the proof showing that the transaction or sale actually took place, coupled with the presentation in court of the thing sold as evidence of the *corpus delicti*. If a police officer goes through the operation as a buyer, the crime is consummated when the police officer makes an offer to buy that is accepted by the accused, and there is an ensuing exchange between them involving the delivery of the dangerous drugs to the police officer.[10]

The concurrence of the foregoing elements was conclusively established herein.

To start with, Paras, as the poseur-buyer, testified that the accused sold to him *shabu* during the buy-bust operation, to wit:

> Q – So when the informant proceeded to the place of Noel Bartolome, what did the informant do?
>
> A – After he threw cigarette in front of Noel Bartolome, I approached him.
>
> x x x x
>
> Q – What happened next?
>
> A – When I approached the accused, I told him.
> "Pre-paiskor nga" and he said
> "Pre, piso na lang tong hawak ko
> Magkano ba ang kukunin mo" and he said
> "ayos nay an, piso lang naman talaga ang kukunin ko."

[10] *People v. Unisa*, G.R. No. 185721, September 28, 2011, 658 SCRA 305.

Q – Who handed first you or the accused?

A – I was the one who handed the buy bust money.

Q – After giving him the ₱100.00 pesos to Noel Bartolome where did he place it?

A – Then after that he placed it on his front pocket and then after that he got one (1) plastic sachet from his left front pocket.

Q – And then after giving you the plastic sachet containing illegal drug, what did you do?

A – I scratched my head, sir.

Q – After scratching your head, what transpired if any?

A – When I saw my companions approaching me, I grabbed Noel Bartolome, sir.[11]

Secondly, the transmission of the plastic sachet and its contents from the time of their seizure until they were delivered to the PNP Crime Laboratory for chemical examination was properly documented, starting with the marking of the plastic sachet at the crime scene by Paras. This was followed by the preparation of the written request by Insp. Cruz at the ADSOU. PO2 De Ocampo then personally brought the plastic sachet and its contents, together with the written request, to the PNP Crime Laboratory, where the delivery of the request and of the sachet and its contents was recorded by SPO1 Bugabuga of that office. In Physical Sciences Report No. D-1038-03, Chemist Dela Rosa of the PNP Crime Laboratory ultimately certified that the contents of the plastic sachet were examined and found to be 0.06 grams of methamphetamine hydrochloride or *shabu*, a dangerous drug.[12]

And, thirdly, the Prosecution presented the *shabu*, the marked ₱100.00 bill, and Chemist Dela Rosa's Physical Sciences Report No. D-1038-03 at the trial.[13]

On the other hand, the accused's claim of being the victim of a vicious frame-up and extortion is unworthy of serious consideration. The fact that frame-up and extortion could be easily concocted renders such defenses hard to believe. Thus, although drug-related violators have commonly tendered such defenses to fend off or refute valid prosecutions of their drug-related violations, the Court has required that such defenses, to be credited at all, must be established with clear and convincing evidence.[14] But the accused

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11 TSN, March 1, 2004, pp. 13-14.
12 *Supra* note 6.
13 Records, pp. 84-86.
14 *People v. Lazaro, Jr.*, G.R. No. 186418, October 16, 2009, 604 SCRA 250, 269.

did not adduce such evidence here, for all he put up were self-serving denials. Had the version of the Defense been what really transpired, there was no reason for the accused and his brother not to have formally charged the police officers with the severely penalized offense of planting of evidence under Section 29[15] of Republic Act No. 9165 and extortion. Thereby, the allegations of frame-up and extortion were rendered implausible.

Yet, the accused discredits the validity of his arrest by contending that the arrest resulted from an instigation, not from a legitimate entrapment. He insists that the evidence of the Prosecution did not show him to be then looking for buyers of *shabu* when Paras and the informant approached him; that it was Paras who proposed to buy *shabu* from him; and that consequently Paras instigated him to sell *shabu*. He submits that the transaction would not have transpired without the proposal and instigation by Paras; that Paras initiated the commission of the crime by offering to him ₱100.00 for the purchase of the *shabu*; and that he should be acquitted due to the absolutory cause of instigation.[16]

The Court is not persuaded to side with the accused.

The trial judge and the CA agreed in their findings on the arrest of the accused being the result of a legitimate entrapment procedure. Such findings were based on the credible testimonies of the poseur buyer and other competent witnesses of the Prosecution. We concur with their findings. Indeed, the trial judge's assessment of the credibility of the witnesses is entitled to respect. This is because of the trial judge's unique opportunity to observe the demeanor of the witnesses as they testified before him.[17] The rule applies even more if, like here, the trial judge's assessment was affirmed by the CA upon review.[18] This rule should be obeyed here.

Moreover, we find no glaring errors or misapprehension of facts committed by the RTC in not according credence to the version of the accused and his brother. In this regard, it is significant that the accused did not ascribe any ill motive to Paras that could have made the officer testify falsely against him. Considering that the records were patently bereft of any indicium of ill motive or of any distorted sense of duty on the part of the apprehending team, particularly Paras as the poseur buyer, full credence was properly accorded to the Prosecution's evidence incriminating the accused. Without the clear and convincing indication of the lawmen's ill motive and

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15 Section 29. *Criminal Liability for Planting of Evidence*. - Any person who is found guilty of "planting" any dangerous drug and/or controlled precursor and essential chemical, regardless of quantity and purity, shall suffer the penalty of death.

16 CA *rollo*, pp. 36-37.

17 *People v. Encila*, G.R. No. 182419, February 10, 2009, 578 SCRA 341, 355; *People v. Pringas* , G.R. No. 175928, April 31, 2007, 531 SCRA 828, 845.

18 Id.

irregular performance of duty, it is always good law to presume them to have performed their official duties in a regular manner.[19] That presumption became conclusive for lack of contravention.

To be clear, then, the insistence by the accused that he was entitled to the benefit of an absolutory cause as the result of an instigation is unwarranted.

There is a definite distinction between instigation and entrapment. The Court highlighted the distinction in *People v. Bayani*,[20] *viz*:

> Instigation is the means by which the accused is lured into the commission of the offense charged in order to prosecute him. On the other hand, entrapment is the employment of such ways and means for the purpose of trapping or capturing a lawbreaker. Thus, in instigation, officers of the law or their agents incite, induce, instigate or lure an accused into committing an offense which he or she would otherwise not commit and has no intention of committing. But in entrapment, the criminal intent or design to commit the offense charged originates in the mind of the accused, and law enforcement officials merely facilitate the apprehension of the criminal by employing ruses and schemes; thus, the accused cannot justify his or her conduct. In instigation, where law enforcers act as co-principals, the accused will have to be acquitted. But entrapment cannot bar prosecution and conviction. As has been said, instigation is a "trap for the unwary innocent," while entrapment is a "trap for the unwary criminal."
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> As a general rule, a buy-bust operation, considered as a form of entrapment, is a valid means of arresting violators of Republic Act No. 9165. It is an effective way of apprehending law offenders in the act of committing a crime. In a buy-bust operation, the idea to commit a crime originates from the offender, without anybody inducing or prodding him to commit the offense.
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> A police officer's act of soliciting drugs from the accused during a buy-bust operation, or what is known as a "decoy solicitation," is not prohibited by law and does not render invalid the buy-bust operations. The sale of contraband is a kind of offense habitually committed, and the solicitation simply furnishes evidence of the criminal's course of conduct. In *People v. Sta. Maria*, the Court clarified that a "decoy solicitation" is not tantamount to inducement or instigation:
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> > It is no defense to the perpetrator of a crime that facilities for its commission were purposely placed in his way, or that the criminal act was done at the "decoy solicitation" of persons seeking to expose the criminal, or that detectives feigning complicity in the act were present and apparently assisting its commission. Especially is this true in that class of cases where the office is one habitually committed, and the solicitation merely furnishes evidence of a course of conduct.

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19 *People v. Abedin*, G.R. No. 179936, April 11, 2012, 669 SCRA 322, 336.

20 G.R. No. 179150, June 17, 2008, 554 SCRA 741, 748-751.

> As here, the solicitation of drugs from appellant by the informant utilized by the police merely furnishes evidence of a course of conduct. The police received an intelligence report that appellant has been habitually dealing in illegal drugs. They duly acted on it by utilizing an informant to effect a drug transaction with appellant. There was no showing that the informant induced the appellant to sell illegal drugs to him.

Conversely, the law deplores instigation or inducement, which occurs when the police or its agent devises the idea of committing the crime and lures the accused into executing the offense. Instigation absolves the accused of any guilt, given the spontaneous moral revulsion from using the powers of government to beguile innocent but ductile persons into lapses that they might otherwise resist.

People v. Doria enumerated the instances when this Court recognized instigation as a valid defense, and an instance when it was not applicable:

> In *United States v. Phelps*, we acquitted the accused from the offense of smoking opium after finding that the government employee, a BIR personnel, actually induced him to commit the crime in order to persecute him. Smith, the BIR agent, testified that Phelps' apprehension came after he overheard Phelps in a saloon say that he like smoking opium on some occasions. Smith's testimony was disregarded. We accorded significance to the fact that it was Smith who went to the accused three times to convince him to look for an opium den where both of them could smoke this drug. The conduct of the BIR agent was condemned as "most reprehensible." In *People v. Abella*, we acquitted the accused of the crime of selling explosives after examining the testimony of the apprehending police officer who pretended to be a merchant. The police officer offered "a tempting price, xxx a very high one" causing the accused to sell the explosives. We found there was inducement, "direct, persistent and effective" by the police officer and that outside of his testimony, there was no evidence sufficient to convict the accused. In *People v. Lua Chu and Uy Se Tieng*, [W]e convicted the accused after finding that there was no inducement on the part of the law enforcement officer. We stated that the Customs secret serviceman smoothed the way for the introduction of opium from Hong Kong to Cebu after the accused had already planned its importation and ordered said drug. We ruled that the apprehending officer did not induce the accused to import opium but merely entrapped him by pretending to have an understanding with the Collector of Customs of Cebu to better assure the seizure of the prohibited drug and the arrest of the surreptitious importers.

In recent years, it has become common practice for law enforcement officers and agents to engage in buy-bust operations and other entrapment procedures in apprehending drug offenders, which is made difficult by the secrecy with which drug-related offenses are conducted and the many devices and subterfuges employed by offenders to avoid

> detection. On the other hand, the Court has taken judicial notice of the ugly reality that in cases involving illegal drugs, corrupt law enforcers have been known to prey upon weak, hapless and innocent persons. The distinction between entrapment and instigation has proven to be crucial. The balance needs to be struck between the individual rights and the presumption of innocence on one hand, and ensuring the arrest of those engaged in the illegal traffic of narcotics on the other.

Applying the foregoing, we declare that the accused was not arrested following an instigation for him to commit the crime. Instead, he was caught *in flagrante delicto* during an entrapment through buy-bust. In a buy-bust operation, the pusher sells the contraband to another posing as a buyer; once the transaction is consummated, the pusher is validly arrested because he is committing or has just committed a crime in the presence of the buyer. Here, Paras asked the accused if he could buy *shabu*, and the latter, in turn, quickly transacted with the former, receiving the marked bill from Paras and turning over the sachet of *shabu* he took from his pocket. The accused was shown to have been ready to sell the *shabu* without much prodding from Paras. There is no question that the idea to commit the crime originated from the mind of the accused.

The accused argues that the absence of a prior surveillance cast doubt on the veracity of the buy-bust operation; and that the failure to present the informant as a witness against him, as well as the buy-bust team's failure to comply with the requirements under Section 21, Article II, of Republic Act No.9165, were fatal to the cause of the Prosecution.[21]

The argument of the accused lacks merit. We have held that prior surveillance is not necessary to render a buy-bust operation legitimate, especially when the buy-bust team is accompanied to the target area by the informant.[22] That was what precisely happened here.

Similarly, the presentation of an informant as a witness is not regarded as indispensable to the success of a prosecution of a drug-dealing accused. As a rule, the informant is not presented in court for security reasons, in view of the need to protect the informant from the retaliation of the culprit arrested through his efforts. Thereby, the confidentiality of the informant's identity is protected in deference to his invaluable services to law enforcement.[23] Only when the testimony of the informant is considered absolutely essential in obtaining the conviction of the culprit should the need to protect his security be disregarded. Here, however, the informant's testimony as a witness against the accused would only be corroborative of

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21 CA *Rollo*, pp. 38-43.
22 *Supra* note 19, at 338.
23 *People v. Naquita*, G.R. No. 180511, July 28, 2008, 560 SCRA 430, 445-446.

the sufficient testimony of Paras as the poseur-buyer; hence, such testimony was unnecessary.[24]

We consider as unwarranted the contention of the accused about the non-compliance by the buy-bust team with the requirements of the law for the proper seizure and custody of dangerous drugs.

The requirements are imposed by Section 21, paragraph 1, Article II of Republic Act No. 9165, whose pertinent portion reads as follows:

> 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:
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> (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;
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> x x x x

To implement the requirements of Republic Act No. 9165, Section 21 (a), Article II of the IRR relevantly states:

> x x x x
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> (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;
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> x x x x

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[24] *People v. Lazaro*, *supra* note 14, at 272.

It is notable that pursuant to the IRR, *supra*, the non-observance of the requirements may be excused if there is a justification, provided the integrity of the seized items as evidence is "properly preserved by the apprehending officer/team."

Although it appears that the buy-bust team did not literally observe all the requirements, like photographing the confiscated drugs in the presence of the accused, of a representative from the media and from the Department of Justice, and of any elected public official who should be required to sign the copies of the inventory and be given a copy of it, whatever justification the members of the buy-bust team had to render in order to explain their non-observance of all the requirements would remain unrevealed because the accused did not assail such non-compliance during the trial. He raised the matter for the first time only in the CA. As such, the Court cannot now dwell on the matter because to do so would be against the tenets of fair play and equity. That is what the Court said in *People v. Sta. Maria*,[25] to wit:

> 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.

We point out that the non-adherence to Section 21, Article II of Republic Act No. 9165 was not a serious flaw that would make the arrest of the accused illegal or that would render the *shabu* subject of the sale by him inadmissible as evidence against him. What was crucial was the proper preservation of the integrity and the evidentiary value of the seized *shabu*, inasmuch as that would be significant in the determination of the guilt or innocence of the accused.[26]

The State showed here that the chain of custody of the *shabu* was firm and unbroken. The buy-bust team properly preserved the integrity of the *shabu* as evidence from the time of its seizure to the time of its presentation in court. Immediately upon the arrest of the accused, Paras marked the plastic sachet containing the *shabu* with the accused's initials of *NBB*. Thereafter, Paras brought the sachet and the contents to the ADSOU,[27]

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25 G.R. No. 171019, February 23, 2007, 516 SCRA 621, 633-634.
26 *Supra* note 19, at 337.
27 TSN, March 1, 2004, p. 15.

where his superior officer, Insp. Cruz, prepared and signed the request for the laboratory examination of the contents of the marked sachet.[28] PO2 De Ocampo handcarried the request and the evidence to the PNP Crime Laboratory.[29] SPO1 Bugabuga of that office recorded the delivery of the request and the marked sachet, which were all received by Chemist Dela Rosa.[30] In turn, Chemist Dela Rosa examined the contents of the marked sachet, and executed Physical Sciences Report No. D-1038-03 confirming that the marked sachet contained 0.06 gram of *shabu*.[31] In this regard, the accused did not deny that Paras and Chemist Dela Rosa affirmed the sequence of custody of the *shabu* during the trial.[32]

The CA and the RTC correctly imposed life imprisonment and fine of ₱500,000.00. Section 5, Article II of Republic Act No. 9165 states that the penalty for the illegal sale of dangerous drugs, like *shabu*, regardless of the quantity and purity, shall be life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10,000,000.00.[33]

WHEREFORE, we **AFFIRM** the decision promulgated by the Court of Appeals on January 29, 2010; and **ORDER** the accused to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

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28 Records, p. 83.
29 Id.
30 Id.
31 Id. at 84.
32 TSN, March 1, 2004, p. 15; records, p. 24.
33 Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous 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 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.

TERESITA J. LEONARDO-DE CASTRO **MARTIN S. VILLARAMA, JR.**
Associate Justice 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