



**Republic of the Philippines  
Supreme Court  
Manila**

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 198794**

Present:

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

- *versus* -

Promulgated:

**VICTOR DE JESUS y GARCIA,**  
Accused-Appellant.

**FEB 06 2013**

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**DECISION**

**LEONARDO-DE CASTRO, *J.*:**

For review is the March 24, 2011 Decision<sup>1</sup> of the Court of Appeals in CA-G.R. CR.-H.C. No. 03671, which affirmed the Regional Trial Court's (RTC) November 4, 2008 Joint Judgment<sup>2</sup> in Criminal Case Nos. 1091-M-2003 and 1092-M-2003, wherein accused-appellant Victor de Jesus y Garcia (De Jesus) was found guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. 9165.

On April 1, 2003, De Jesus was charged before the Malolos, Bulacan RTC, Branch 76 for violating Sections 5 and 11, Article II of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002. The pertinent portions of the respective Informations are quoted as follows:

Criminal Case No. 1091-M-2003:

That on or about the 31<sup>st</sup> day of March, 2003, in the municipality of Baliuag, province of Bulacan, Philippines, and within the jurisdiction of

<sup>1</sup> *Rollo*, pp. 2-18; penned by Associate Justice Mariflor P. Punzalan Castillo with Associate Justices Josefina Guevara-Salonga and Franchito N. Diamante, concurring.

<sup>2</sup> *CA rollo*, pp. 63-83; penned by Presiding Judge Albert R. Fonacier.

this Honorable Court, the above-named accused, without authority of law and legal justification, did then and there willfully, unlawfully and feloniously sell, trade, deliver, give away, dispatch in transit and transport dangerous drug (*sic*) consisting of one (1) heat-sealed transparent plastic sachet of Methylamphetamine Hydrochloride weighing 0.022 gram.<sup>3</sup>

**Criminal Case No. 1092-M-2003:**

That on or about the 31<sup>st</sup> day of March, 2003, in the municipality of Baliuag, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and legal justification, did then and there willfully, unlawfully and feloniously have in [his] possession and control dangerous drug (*sic*) consisting of [e]ight (8) heat-sealed transparent plastic sachets of Methamphetamine Hydrochloride weighing 0.027 gram, 0.019 gram, 0.020 gram, 0.017 gram, 0.021 gram, 0.018 gram, 0.020 gram and 0.146 gram respectively.<sup>4</sup>

De Jesus pleaded not guilty to both charges upon his arraignment<sup>5</sup> on June 16, 2003. During the pre-trial conference<sup>6</sup> held on August 5, 2003, counsel for De Jesus admitted “the qualification and competence of Forensic Chemical Officer Nellson C. Sta. Maria as an expert witness; the existence of the request for laboratory examination, the affidavit of the Police Officers, Chemistry Report No. D-241-2003 and the attached specimen subject of these cases with qualification that said specimen were not taken from the possession of the accused.” After the prosecution marked its exhibits, the pre-trial conference was terminated and the testimony of the Forensic Chemical Officer was thereby dispensed with.

The testimonies of Police Officer (PO) 3 Tomas Nachor, Jr.,<sup>7</sup> the police investigator stationed at the Provincial Drug Enforcement Group, Bulacan (Bulacan PDEG) at that time and PO1 Joven Quizon,<sup>8</sup> a member of the Bulacan PDEG, were also dispensed with by the parties in view of the following stipulations:

*With respect to PO3 Tomas Nachor, Jr. the parties stipulated:*

1. That PO3 Tomas Nachor, Jr. was the police investigator at the time of the commission of the alleged offenses;

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<sup>3</sup> Records, p. 2.

<sup>4</sup> Id. at 5.

<sup>5</sup> Id. at 19.

<sup>6</sup> Id. at 24-25.

<sup>7</sup> Id. at 127.

<sup>8</sup> Id. at 133.

2. That being the investigator in these cases, PO2 Carlito Bernardo and the other police operatives who conducted the drug operation turned over to him the specimen subject of these cases, which consisted of eight (8) pieces of heat-sealed transparent plastic sachets with markings B-P-1 “CB” to B-P-8 “CB”;
3. That as an investigator, he prepared the documentation of these cases including the request for laboratory examination and the request for drug test examination; and
4. That he was the one who turned over the specimen as well as the person of the accused to the Crime Laboratory Office for laboratory examination of the specimen as well as for the urine drug test of the accused.<sup>9</sup>

*With respect to PO1 Joven Quizon:*

1. That PO1 Joven Quizon was a member of the Bulacan PDEG during the subject incident;
2. That he only served as back-up to the poseur-buyer, PO[2] Carlito Bernardo, during the buy-bust operation; and
3. That he can identify the accused as well as the joint affidavit of arrest he executed in relation to these charges.<sup>10</sup>

The trial ensued with the presentation of PO2 Carlito Bernardo as the lone witness for the prosecution, while De Jesus himself and his daughter, Victoria Angelica de Jesus, testified for the defense.

The events, as put forward by the prosecution, through PO2 Bernardo’s testimony, were summarized by the Office of the Solicitor General (OSG) in its brief<sup>11</sup> as follows:

On March 28, 2003, a report reached the office of the [Bulacan PDEG] about the alleged drug selling activities of one alias Vic, herein appellant Victor De Jesus y Garcia, along Mabini St., Barangay Poblacion, Baliuag, Bulacan. Upon instructions of the chief of the PDEG, a surveillance was conducted in the area by SPO2 Violago, as the team leader, together with PO1 Quizon, PO1 Dimla, and PO2 Carlito Bernardo[,] as members.

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<sup>9</sup> Id. at 127.

<sup>10</sup> Id. at 132.

<sup>11</sup> CA *rollo*, pp. 149-175.

The surveillance team proceeded to Barangay Poblacion, particularly observing the perimeter of [De Jesus'] abode along Mabini Street from 1:30 p.m. to 5:00 p.m. Various persons were noticed to have been coming in and out of the said house.

A buy bust operation was instructed by the PDEG chief with the assistance of a confidential agent, known as alias "Erap". PO2 Carlito Bernardo was designated as the poseur buyer with SPO2 Violago, PO1 Jacinto, and PO1 Quizon as back up. The former was given two (2) pieces of marked one hundred peso bills of which he placed his initials CB on the center of the seal of the Bangko Sentral ng Pilipinas of each bill.

At around 12:15 p.m. of March 31[,] 2002, the buy-bust team proceeded to the house of their confidential agent at Barangay Poblacion, merely 70 meters away from the house of [De Jesus]. The team conducted a briefing on the procedure of their operation at their confidential agent's house.

Around 1:00 p.m., PO2 Carlito Bernardo and the confidential agent proceeded to the house of [De Jesus] in the guise of buying sachets of shabu. Upon arrival thereat, the confidential agent introduced PO2 Carlito Bernardo to [De Jesus]. [De Jesus] then asked about the money. PO2 Carlito Bernardo handed the money to [De Jesus] consisting of two (2) pieces of marked one hundred peso bills. [De Jesus], in turn, received the money and took out a white colored cylindrical plastic film case. From the film case, [De Jesus] took out a medium sized transparent plastic sachet and gave it to PO2 Carlito Bernardo. After receiving the sachet, the latter held [De Jesus] and introduced himself as a police officer. PO2 Carlito Bernardo recovered the film case from the right hand of [De Jesus]. The film case contained two (2) medium sized and six (6) small sized transparent plastic sachets. The marked money was recovered from the pocket of [De Jesus]. After asking [De Jesus] to bring out the contents of his pocket, a sachet of marijuana was likewise recovered. [De Jesus] was then informed of his constitutional rights.

While still at the scene of the incident, PO2 Carlito Bernardo marked the medium sized transparent plastic sachet handed by [De Jesus] to him as A-BB and CB. The other sachets found inside the film case [were] marked and initialed as follows: two (2) medium sized sachets were marked as B-P1-CB and B-P8-CB[,] while the six (6) small sachets were marked BP2-CB to BP7-CB. The sachet of marijuana recovered from [De Jesus'] pocket was marked as C-P9-CB.

[De Jesus] was immediately taken to the police station for proper investigation. The incident was logged and the evidence were turned over to the station's investigator, PO2 Tomas Nachor. PO2 Tomas Nachor, in turn prepared the request for the laboratory examination of the recovered specimen and personally submitted the same to the crime laboratory office, which were later found positive for shabu and marijuana.<sup>12</sup> (Citations omitted.)

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<sup>12</sup>

Id. at 154-156.

On the other hand, De Jesus, in his brief,<sup>13</sup> denied the charges and claimed that he was framed by the confidential agent for personal reasons, to wit:

On 28 March 2003, at around 12:00 o'clock in the afternoon, VICTOR DE JESUS was sleeping inside his house, while his children were watching television, when seven (7) persons suddenly entered and woke him up. The trespassers were a police asset named Marvin Crisostomo, police officers Quizon, Bernardo, Magona, Jacinto, and Chan. He knew the police officers because Crisostomo, a police asset, used to stay in his house. Whenever there would be a police operation, the group [would] usually gather inside his house. Crisostomo was formerly his friend but their relationship turned sour, because of the former's illicit relationship with his sister-in-law, Sweet. Since then, Crisostomo held a grudge against him. When the group entered his house, they searched his room and his person but nothing illegal was found. The police officers merely planted the evidence against him and no buy-bust operation took place.

VICTORIA ANGELICA DE JESUS corroborated her father's account. She was watching television when [the] police officers suddenly barged inside their house. The police officers were with Marvin Crisostomo, a police asset. [Her] father was handcuffed and they conducted a search in his room. The police officers then brought her father to the comfort room where he was bodily searched. When the police officers entered the children's room, they suddenly declared that they have found something.<sup>14</sup> (Citations omitted.)

On November 4, 2008, the RTC convicted De Jesus in a Joint Judgment on Criminal Case Nos. 1091-M-2003 and 1092-M-2003, the *fallo* of which reads:

WHEREFORE, finding the accused **GUILTY** beyond reasonable doubt, accused **VICTOR DE JESUS y GARCIA @ Vic** is hereby **CONVICTED**:

[A] in Criminal Case No. 1091-M-2003, which charges accused with sale of dangerous drug consisting of one (1) heat sealed transparent plastic sachet of methylamphetamine hydrochloride commonly known as *shabu*, weighing 0.022 gram and a dangerous drug, in violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002", and is **SENTENCED** to suffer **LIFE IMPRISONMENT**, and to pay the **FINE** of Five Hundred Thousand Pesos (₱500,000.00);

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<sup>13</sup> Id. at 94-113.

<sup>14</sup> Id. at 101-102.

[B] in Criminal Case No. 1092-M-2003, which charges accused for possession and control of dangerous drug consisting of eight (8) heat sealed transparent plastic sachets of methamphetamine hydrochloride commonly known as *shabu*, weighing 0.027, 0.019, 0.020, 0.017, 0.021, 0.018, 0.020, and 0.146 gram and are all dangerous drugs, in violation of Section 11, Article II of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002”, and is **SENTENCED** to suffer the imprisonment of, applying the Indeterminate Sentence Law, **TWELVE (12) YEARS AND ONE DAY, AS THE MINIMUM TERM, TO THIRTEEN (13) YEARS, AS THE MAXIMUM TERM,** and to pay the **FINE** of Three Hundred Thousand Pesos (₱300,000.00);

As to the specimen subject of these cases and which are listed in Chemistry Report No. D-241-2003, the same are hereby confiscated in favor of the government. The Clerk of Court is directed to dispose of the said specimen in accordance with the existing procedure, rules and regulations.

Furnish both parties of this joint judgment and the Provincial Jail Warden.<sup>15</sup> (Citation omitted.)

On appeal,<sup>16</sup> the Court of Appeals, in its March 24, 2011 Decision, affirmed the RTC, to wit:

**WHEREFORE**, in view of the foregoing, the instant appeal is **DISMISSED**. The Joint Decision of the Regional Trial Court of Malolos City, Branch 76 dated 4 November 2008 finding accused-appellant guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is **AFFIRMED**.<sup>17</sup>

The Court of Appeals ruled that the prosecution was able to establish the chain of custody and preserve the integrity and identity of the confiscated drugs. It found De Jesus’ testimony as self-serving, and his daughter’s as biased, since there was no evidence presented to substantiate their claims. Moreover, the Court of Appeals noted that the improper motive imputed by De Jesus was against the confidential informant and not the police officers who apprehended him.<sup>18</sup>

Anent the discrepancy on the date the buy-bust operation took place, the Court of Appeals held that there was no discrepancy as March 29, 2003 was the date the operation was “supposed” to be carried out as opposed to the categorical statement from PO2 Bernardo that the actual buy-bust operation occurred on March 31, 2003.<sup>19</sup>

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<sup>15</sup> Id. at 82-83.

<sup>16</sup> Records, p. 209.

<sup>17</sup> *Rollo*, pp. 17-18.

<sup>18</sup> Id. at 9-16.

<sup>19</sup> Id. at 16.

Aggrieved, De Jesus appealed<sup>20</sup> the above ruling to this Court, assigning the same errors he assigned before the Court of Appeals,<sup>21</sup> viz:

**I**

**THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE APPREHENDING OFFICERS' FAILURE TO PRESERVE THE INTEGRITY AND IDENTITY OF THE SEIZED SHABU.**

**II**

**THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>22</sup>**

Discussing the two errors jointly, De Jesus claims that the prosecution failed to ensure that unnecessary doubts concerning the identity of the evidence were removed, as the police officers did not observe the proper procedure in the handling of seized articles.<sup>23</sup> De Jesus states:

[T]he mere fact of unauthorized sale or possession will not suffice to create in a reasonable mind the moral certainty required to sustain a finding of guilt. The fact that the substance illegally sold and possessed in the first place is the same substance offered in court as exhibit must also be established with the same unwavering exactitude as that requisite to make a finding of guilt.<sup>24</sup>

De Jesus also questions the discrepancy on the date of the buy-bust operation made by the prosecution's lone witness, PO2 Bernardo. In his May 19, 2005 testimony, PO2 Bernardo declared that the buy-bust operation was conducted on March 29, 2003, which was two days earlier than the March 31, 2003 date he stated in his joint affidavit and the date in the Informations filed against De Jesus.

***This Court's Ruling***

This Court would like to state at the outset that it is a settled rule that the trial court's assessment of the credibility of the witnesses and their testimonies is entitled to great weight and will not be disturbed on appeal. Such rule will not apply only when it appears that a fact of weight and

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<sup>20</sup> CA rollo, pp. 195-197.

<sup>21</sup> Rollo, pp. 26-29.

<sup>22</sup> CA rollo, p. 96.

<sup>23</sup> Id. at 103-104.

<sup>24</sup> Id. at 108.

substance has been overlooked, misapprehended, or misapplied by the Court.<sup>25</sup> After an exhaustive review and examination of the records of this case, the Court finds no cogent reason to reverse the consistent ruling of the RTC and the Court of Appeals.

De Jesus was charged and convicted for the sale and possession of dangerous drugs in violation of Sections 5 and 11, Article II of Republic Act No. 9165 or the Dangerous Drugs Act of 2002. The law provides:

**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 (₱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.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) 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 controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

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*People v. Salcena*, G.R. No. 192261, November 16, 2011, 660 SCRA 349, 358.



The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a “financier” of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who acts as a “protector/coddler” of any violator of the provisions under this Section.

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

- (1) 10 grams or more of opium;
- (2) 10 grams or more of morphine;
- (3) 10 grams or more of heroin;
- (4) 10 grams or more of cocaine or cocaine hydrochloride;
- (5) 50 grams or more of methamphetamine hydrochloride or “shabu”;
- (6) 10 grams or more of marijuana resin or marijuana resin oil;
- (7) 500 grams or more of marijuana; and
- (8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDMA) or “ecstasy,” paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamide (LSD), gamma hydroxybutyrate (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, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

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

- (1) Life imprisonment and a fine ranging from Four hundred thousand pesos (₱400,000.00) to Five hundred thousand pesos (₱500,000.00), if the quantity of methamphetamine hydrochloride or “shabu” is ten (10) grams or more but less than fifty (50) grams;

- (2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (₱400,000.00) to Five hundred thousand pesos (₱500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) 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 three hundred (300) grams or more but less than five hundred (500) grams of marijuana; and
- (3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (₱300,000.00) to Four hundred thousand pesos (₱400,000.00), 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.

### ***Illegal Sale of Dangerous Drugs***

Expounding on the necessities for the successful prosecution of an illegal sale of dangerous drugs case, this Court, in *People v. Del Rosario*,<sup>26</sup> held:

In a prosecution for the sale of a dangerous drug, the following elements must be proven: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. Simply put, “[in] prosecutions for illegal sale of *shabu*, what is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence.” (Citations omitted.)

To reiterate, the prosecution must establish the actual occurrence of the transaction between the buyer and seller of the dangerous drug, simultaneous with the presentation of the very same dangerous drug in court as evidence. This burden, the prosecution was able to successfully discharge.

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<sup>26</sup>

G.R. No. 188107, December 5, 2012.

Section 21 of Republic Act No. 9165 outlines the procedure on the chain of custody of confiscated, seized, or surrendered dangerous drugs:

Section 21 of Republic Act No. 9165, provide as follows:

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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

(4) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of 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 DOJ, civil society groups and any elected public official. The Board shall draw

up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: *Provided*, That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: *Provided, further*, That a representative sample, duly weighed and recorded is retained;

(5) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to the court having jurisdiction over the case. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;

(6) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;

(7) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same; and

(8) Transitory Provision: a) Within twenty-four (24) hours from the effectivity of this Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies shall, with leave of court, be burned or destroyed, in the presence of representatives of the Court, DOJ, Department of Health (DOH) and the accused and/or his/her counsel, and, b) Pending the organization of the PDEA, the custody, disposition, and burning or destruction of seized/surrendered dangerous drugs provided under this Section shall be implemented by the DOH.

Its Implementing Rules and Regulations state:

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:

(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;**

(b) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(c) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: Provided, that when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, that a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

(d) After the filing of the criminal case, the court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall, within twenty-four (24) hours thereafter, proceed with the destruction or burning of 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 DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: Provided, that those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes; Provided, further, that a representative sample, duly weighed and recorded is retained;

(e) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to

the court having jurisdiction over the case. In cases of seizures where no person is apprehended and no criminal case is filed, the PDEA may order the immediate destruction or burning of seized dangerous drugs and controlled precursors and essential chemicals under guidelines set by the Board. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;

(f) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;

(g) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same; and

(h) Transitory Provision:

h.1) Within twenty-four (24) hours from the effectivity of the Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies shall, with leave of court, be burned or destroyed, in the presence of representatives of the court, DOJ, Department of Health (DOH) and the accused and/or his/her counsel; and

h.2) Pending the organization of the PDEA, the custody, disposition, and burning or destruction of seized/surrendered dangerous drugs provided under this Section shall be implemented by the DOH.

In the meantime that the PDEA has no forensic laboratories and/or evidence rooms, as well as the necessary personnel of its own in any area of its jurisdiction, the existing National Bureau of Investigation (NBI) and Philippine National Police (PNP) forensic laboratories shall continue to examine or conduct screening and confirmatory tests on the seized/surrendered evidence whether these be dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments, paraphernalia and/or laboratory equipment; and the NBI and the PNP shall continue to have custody of such evidence for use in court and until disposed of, burned or destroyed in accordance with the foregoing rules: Provided, that pending appointment/designation of the full complement of the representatives from the media, DOJ, or elected public official, the inventory of the said evidence shall continue to be conducted by the arresting NBI and PNP operatives under their existing procedures unless otherwise directed in writing by the DOH or PDEA, as the case may be. (Emphasis supplied.)

It was held, however, that “a testimony about a perfect chain is not always the standard as it is almost always impossible to obtain an unbroken chain.”<sup>27</sup> The arresting officers’ failure to conduct a physical inventory and to photograph the items seized from De Jesus will not render his arrest illegal or the items confiscated from him inadmissible in evidence as they were able to nonetheless preserve the integrity and the evidentiary value of the said items. This is what is of utmost importance as the seized items are what would be used in the determination of De Jesus’ guilt or innocence.<sup>28</sup>

Verily, the prosecution was able to demonstrate that the integrity and the evidentiary value of the evidence had been preserved. PO2 Bernardo’s testimony as to how they learned of De Jesus’ drug dealing activities up to the time they arrested him and confiscated the items subject of this case was clear and positive. He was also categorical in his statements on how he marked the seized items and to whom he turned them over. His mistake as to the exact date of the buy-bust operation will not render his testimony incredible. It must be remembered that aside from the fact that these police officers handle numerous cases everyday, the first hearing held for this case was years after the date of De Jesus’ arrest. Besides, it is settled that the exact date of the commission of the crime need not be proved unless it is an essential element of the crime.<sup>29</sup> What is significant is that the links in the chain of custody were all accounted for by the prosecution, from the time the items were confiscated from De Jesus, up to the time they were presented in court during trial as proof of the *corpus delicti*.

In any case, unless De Jesus 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, and that the police officers discharged their duties properly and with regularity, will remain.<sup>30</sup> It is worthy to note that the ill motive De Jesus speaks of is imputed against the informant and not the police officers. This Court agrees with the Court of Appeals when it said that it is highly incredible that the arresting officers would waste their time and effort,<sup>31</sup> and even run the risk of losing their jobs and tainting their reputations just so they could accommodate an informant with a grudge against De Jesus.

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<sup>27</sup> *Asiatico v. People*, G.R. No. 195005, September 12, 2011, 657 SCRA 443, 451-452.

<sup>28</sup> *People v. Amansec*, G.R. No. 186131, December 14, 2011, 662 SCRA 574, 594.

<sup>29</sup> *People v. Chua Tan Lee*, 457 Phil. 443, 450 (2003).

<sup>30</sup> *People v. Mendoza*, G.R. No. 189327, February 29, 2012, 667 SCRA 357, 369.

<sup>31</sup> *Rollo*, p. 16.

### ***Illegal Possession of Dangerous Drugs***

In prosecuting cases for illegal possession of dangerous drugs, the prosecution must establish the following elements:

- 1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated drug;
- (2) such possession is not authorized by law; and
- (3) the accused freely and consciously possessed the drug.<sup>32</sup>

The above elements were all duly established by the prosecution. After De Jesus was validly arrested for the illegal sale of drugs, he was searched and frisked, pursuant to Section 13, Rule 126 of the Rules of Court, to wit:

SEC. 13. *Search incident to lawful arrest.* — A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant.

Upon such search, De Jesus was found to be in possession of eight heat-sealed sachets of *shabu*, an item identified to be a prohibited or regulated drug. De Jesus failed to show that he had authority to possess them. Moreover, mere possession of a prohibited drug constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused in the absence of satisfactory explanation.<sup>33</sup>

De Jesus' defense theory, which is mainly of denial and frame-up are inherently weak and are not favored upon by the courts for being easily concocted. For such defenses to succeed they must be proven with strong and convincing evidence.<sup>34</sup> This, De Jesus failed to do.

In light of the foregoing, we find no reason to disturb the lower courts' ruling.

**WHEREFORE**, premises considered, the Court hereby **AFFIRMS** the March 24, 2011 Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 03671.

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<sup>32</sup> *Asiatico v. People*, supra note 27 at 450.

<sup>33</sup> *Id.* at 451.


<sup>34</sup> *People v. Lazaro, Jr.*, G.R. No. 186418, October 16, 2009, 604 SCRA 250, 269.

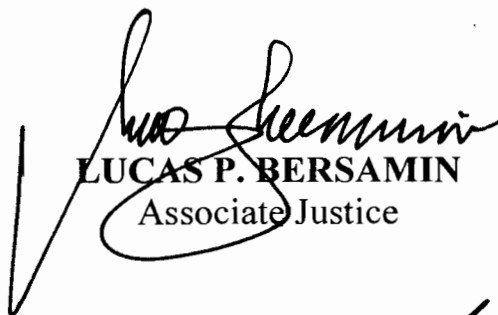


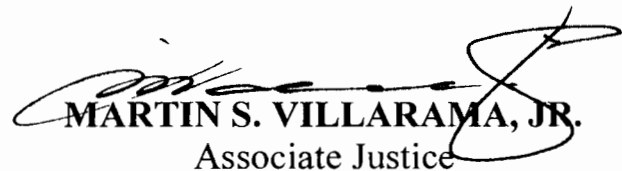
**SO ORDERED.**

  
**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