



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 195777

Present:

-versus-

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

FERDINAND CASTRO y LAPENA,
Accused-Appellant.

Promulgated:
JUN 19 2013

X-----X

DECISION

PEREZ, J.:

We review the conviction¹ of accused-appellant for violation of Sections 5 and 11, Article II of Republic Act No. 9165 (R.A. 9165).² The

¹ Records, pp. 97-103. Decision dated 11 August 2004. Penned by Judge Pablito M. Rojas, Regional Trial Court, Branch 70, Pasig City.

CA rollo, pp. 83-99. Decision dated 28 May 2010. Penned by Associate Justice Antonio L. Villamor with Associate Justices Jose C. Reyes, Jr. and Florito S. Macalino concurring.

² Section 5, Article II, R.A. 9165 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 (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

x x x x.

Section 11, Article II, R.A. 9165, on the other hand, provides:

Section 11. *Possession of Dangerous Drugs.* - x x x

Court of Appeals affirmed with modification³ the trial court’s decision finding him guilty beyond reasonable doubt of the crimes charged, and denied the motion for reconsideration.⁴

The Facts

On 14 July 2003, accused-appellant pleaded “not guilty” to the charges of illegal sale and illegal possession of methamphetamine hydrochloride (*shabu*)⁵ before the Regional Trial Court of Pasig City.

During pre-trial, the presentation of the prosecution witness, Forensic Chemist Senior Police Inspector Annalee R. Forro (Sr. Police Inspector Forro), was dispensed with⁶ after the parties stipulated on the following:

1. The due execution and genuineness of the Request for Laboratory

x x x x

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

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of x x x methamphetamine hydrochloride or "shabu", or other dangerous drugs x x x.

³ CA rollo, pp. 83-99. Decision dated 28 May 2010.
⁴ Id. at 117-118. Resolution dated 27 August 2010. Penned by Associate Justice Antonio L. Villamor with Associate Justices Jose C. Reyes, Jr. and Florito S. Macalino concurring.
⁵ The accusatory portions of the separate Informations dated 30 May 2003 and 9 May 2003, respectively, read:

Criminal Case No. 12472-D:

On or about May 8, 2003, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO1 Allan Mapula, a police poseur-buyer, one (1) heat-sealed transparent plastic sachet containing three centigrams (0.03 gram) of white crystalline substance, which was found positive x x x for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Criminal Case No. 12473-D:

On or about May 8, 2003 in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control two (2) heat-sealed transparent plastic sachets containing three centigrams (0.03 gram) and five centigrams (0.05 gram) of white crystalline substance, which were found positive x x x for methamphetamine hydrochloride (*shabu*), a dangerous drug, in violation of the said law.

Records, pp. 1 and 20.
⁶ Id. at 54. Pre-Trial Order dated 8 September 2003.

Examination dated May 8, 2003 x x x and the stamp showing receipt thereof by the PNP Crime Laboratory x x x;

2. The due execution and genuineness, as well as the truth of the contents, of [Chemistry] Report No. D-849-03E issued by Forensic Chemist Police Inspector Annalee R. Forro of the PNP Crime Laboratory x x x, the finding and conclusion as appearing on the report x x x and the signature of the forensic chemist x x x[;]
3. The existence of the plastic sachets, but not their source or origin, the contents of which was the subject of the Request for Laboratory Examination, x x x and x x x (the plastic sachets).⁷

On trial, the following witnesses were presented: PO1 Allan Mapula⁸ (PO1 Mapula) and PO1 Michael Familara⁹ (PO1 Familara), both of the Station Drug Enforcement Unit, Eastern Police District, Pasig City Police Station – for the prosecution; and the accused-appellant,¹⁰ Arturo Millare¹¹ (Millare) and Romeo dela Cruz¹² (dela Cruz) – for the defense.

The version of the prosecution was summarized by the Court of Appeals in the following manner:

On May 7, 2003, while on duty at the Drug Enforcement Unit (DEU) of the Pasig City Police Station, [PO1 Familara] received a telephone call from a confidential informant who reported that a certain “Fredie” (later identified as appellant) was selling illegal drugs at Kalamansi Street, Napiko, Barangay Manggahan, Pasig City.

PO1 Familara relayed the information to his superior, SPO4 Danilo Tuano. Initially, a buy-bust team, composed of PO3 Carlo Luna as team leader, PO1 Familara, and [PO1 Mapula,] as poseur-buyer was organized to apprehend appellant. The team coordinated with the Philippine Drugs Enforcement Agency (PDEA) and the buy-bust money, a P100 denomination bill, was marked with the initials “AVM”.

The team proceeded to Kalamansi Street, x x x around midnight of the same day. Thereat, the informant approached the members of the team. He then accompanied PO1 Mapula to appellant. In their meeting, the [i]nformant introduced PO1 Mapula to appellant as a buyer of illegal drugs.

Appellant asked PO1 Mapula how much shabu he wanted to buy, to which the latter replied one hundred Pesos (P100.00). PO1 Mapula handed appellant the buy-bust money. In return, appellant gave PO1 Mapula one plastic sachet containing white crystalline substance which he took from

⁷ *Id.* at 53-54.

⁸ TSN, 8 September 2003.

⁹ TSNs, 3 November 2003 and 19 November 2003.

¹⁰ TSN, 14 January 2004.

¹¹ TSN, 10 March 2004.

¹² TSN, 23 June 2004.

his right pocket.

PO1 Mapula put his cap on, which was the pre-arranged signal to the other members of the buy-bust team that the sale has been consummated. After introducing himself as a police officer, he arrested appellant. The other team members surfaced and converged on the scene. PO1 Familara frisked appellant and asked him to empty his pockets. Two pieces of transparent plastic sachets and the buy-bust money were found in his possession and confiscated. While at the scene of the buy-bust operation, PO1 Mapula marked the sachet of shabu which was the subject of the sale with “AVM/FLC 05/08/03”, which stood for PO1 Mapula and appellant’s initials. The other two plastic sachets retrieved from appellant’s pocket were marked by PO1 Familara with “MRF” and “FLC”, which stood for Michael R. Familara and Ferdinand L. Castro’s initials.

Appellant was brought to the police station for further questioning. PO1 Mapula personally brought the three seized plastic sachets containing white crystalline substance to the Philippine National Police Crime Laboratory for examination together with the written Request for Laboratory Examination. The qualitative tests conducted by Forensic Chemist, Sr. Police Inspector x x x (Forro) on the contents of the sachets proved positive for methamphetamine hydrochloride or shabu.¹³

The defense gave a different version of the story. Thus:

On May 7, 2003, around 11 in the evening, appellant was engaged in a drinking spree with his friends, Arthur [Millare] and Luloy [dela Cruz], in front of his house at 1170 Kalamansi Street, Dapigo, Pasig City. Past midnight, he excused himself from the group to prepare for his trip to Nueva Ecija the following morning.

When he was about to enter the gate of his house, four persons suddenly confronted him. Two of them, who were identified as PO1 Mapula and PO1 Familara grabbed him. He asked why he was being arrested, but did not get a reply. His name, age and address were then taken by the police officers. He was thereafter charged with possession and sale of illegal drugs.

[Millare] corroborated appellant’s testimony. He stated that he saw appellant being pushed toward his house by four men who had just alighted from a white car without a plate number. He saw appellant being handcuffed. He shouted and asked, “*Pare, anong kasalanan mo, bakit ka nakaposas?*” but received no response. He went to inform appellant’s mother about the incident. They rushed to the scene of the incident but the four officers had already left with appellant.

[Dela Cruz] alleged that he was the drinking buddy of appellant at the time he was arrested and confirmed the foregoing defense witnesses’

¹³

CA rollo, pp. 87-89. Decision dated 28 May 2010 of the Court of Appeals.

testimonies.¹⁴

After trial, the court convicted accused-appellant of both crimes.¹⁵

On appeal, the Court of Appeals affirmed¹⁶ the decision of the trial court but modified the penalty imposed for illegal possession of *shabu* from *six (6) years and one (1) day of prision mayor as minimum to twelve (12) years and one (1) day of reclusion temporal as maximum to imprisonment of twelve (12) years and one (1) day as minimum, to fourteen (14) years and eight (8) months as maximum, and payment of a fine of three hundred thousand pesos (P300,000.00).*

The motion for reconsideration of the decision was likewise denied by

¹⁴ *Id.* at 89-91.

¹⁵ Records, pp. 97-103. Decision dated 11 August 2004.
The *fallo* reads:

WHEREFORE, premises considered, accused **FERDINAND CASTRO y LAPENA** is hereby found **GUILTY** [b]eyond [r]easonable [d]oubt of the offenses charged and is hereby sentenced, as follows:

1. For Violation of Section 5, Article II of Republic Act 9165 (Criminal Case No. 1272-D), accused is hereby sentenced to Life Imprisonment and to pay a Fine of Five Hundred Thousand Pesos (PHP 500,000.00); and
2. For Violation of Section 11, Article II of Republic Act 9165 (Criminal Case No. 12473-D), applying the Indeterminate Sentence Law, accused is hereby sentenced to Six (6) Years and One (1) Day of prision mayor as minimum, to Twelve (12) Years and One (1) Day of reclusion [t]emporal, as maximum provided that accused shall be credited with the full period of his preventive imprisonment.

Pursuant to Section 20 of Republic Act 9165, the amount of One Hundred Pesos (PHP 100.00) recovered from the accused representing the proceeds from the illegal sale of the plastic sachet of *shabu* is hereby ordered forfeited in favor of the government.

Again, pursuant to Section 21 of the same law, the Philippine Drug Enforcement Agency (PDEA) is hereby ordered to take charge and have custody of the plastic sachets of *shabu*, subject of the instant case, for proper disposition.

Costs against the accused.

¹⁶ CA *rollo*, pp. 83-99. Decision dated 28 May 2010.
The modification reads:

2. For Violation of Section 11, Article II of Republic Act 9165 (Criminal Case No. 12473-D), applying the Indeterminate Sentence Law, appellant is sentenced to imprisonment of Twelve (12) Years and One (1) Day as minimum, to Fourteen (14) Years and Eight (8) months as maximum, and to pay a fine of Three Hundred Thousand Pesos (P300,000.00) provided that appellant shall be credited with the full period of his preventive imprisonment.

the Court of Appeals.¹⁷

Before this Court, both the prosecution and the defense opted not to file their respective supplemental briefs. We, thus, refer to their briefs and re-examine the position of the accused-appellant that: (1) the equipoise rule should have been applied in his favor inasmuch as the testimonies of the witnesses for the prosecution and the defense are all self-serving; (2) the warrantless arrest is invalid; and (3) the seized item proceeding from such arrest is inadmissible in evidence.

Our Ruling

We sustain the conviction of accused-appellant.

To secure a conviction for illegal sale of *shabu*, the following elements must be present: “(a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing.”¹⁸ The prosecution must show that the transaction or sale actually took place, coupled with the presentation of the *corpus delicti* as evidence.¹⁹

We find these present in the case at bar.

PO1 Mapula testified that accused-appellant, not being authorized by law, sold a sachet of *shabu* to PO1 Mapula during a buy-bust operation; that he was introduced by the informant as the person who wanted to buy *shabu*; that he told accused-appellant that he wanted to buy a hundred peso-worth of *shabu*; that accused-appellant asked for and received the marked money; that accused-appellant thereafter handed PO1 Mapula the substance, which later tested for *shabu*.²⁰ The testimony of PO1 Mapula was corroborated on

¹⁷ *Id.* at 117-118. Resolution dated 27 August 2010.

¹⁸ *People v. Bautista*, G.R. No. 177320, 22 February 2012, 666 SCRA 518, 529.

¹⁹ *Id.* at 530 citing *People v. Naquita*, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 449; *People v. del Monte*, G.R. No. 179940, 23 April 2008, 552 SCRA 627, 637-638; *People v. Santiago*, G.R. No. 175326, 28 November 2007, 539 SCRA 198, 212.

²⁰ TSN, 8 September 2003, pp. 14-16.

The testimony of PO1 Mapula reads, in part:

Q: And when you reached Kalamansi Street, what happened next, if any?

A: While we were walking, he pointed to me this alias “Freddie”, who was standing by the side walk, sir.

Q: And after pointing to you Freddie who was standing by the sidewalk, what did you do, if any?

A: When we were already near Freddie, he told me to just wait there and he will be the one to approach Freddie, sir.

material points by PO1 Familiara.²¹ Also, the prosecution was able to present in court the item subject of the sale including the marked money tendered to accused-appellant.

The presence of the elements of the crime of illegal possession of *shabu* has likewise been sufficiently established, to wit: “(a) the accused [was] in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession [was] not authorized by law; and (c)

Q: Did you in fact, approached Freddie?
 A: Yes, sir.
 Q: What happened after?
 A: I saw them talking and after a while, he waived his hand at me to signal that I should approach them, sir.
 Q: And did you approach (sic) them as signaled?
 A: Yes, sir.
 Q: And when you were already with them, what happened next, if any?
 A: I was introduced by the informant as the one who would buy shabu, sir.
 Q: And after introduction, what happened next?
 A: Alias “Freddie” asked me how much will I buy, sir.
 Q: What was your response?
 A: I told him, “*pare, piso lang*”, sir.
 Q: What do you mean by “*piso lang*”?
 A: One Hundred Peso worth of shabu, sir.
 Q: And what did Freddie do when you said you are going to buy a shabu worth Php 100.00?
 A: He asked for the money, sir.
 Q: And did you hand it over to him?
 A: Yes, sir, I did.
 Q: What happened to the shabu that you are going to buy?
 A: After he has taken the buy-bust money, he took out from his right pocket the shabu, sir.
 Q: After taking out from his pocket, what did you do, if any?
 A: He handed to me the shabu, sir.

²¹ TSN, 3 November 2003, pp. 12-15.

The testimony of PO1 Familiara reads, in part:

Q: Okay. What happened next?
 A: Upon reaching half-way of [K]alamansi [S]treet, we noticed that PO1 Mapula stopped, so I together with my companion PO3 Carlo Luna also stopped, sir.
 Q: And when Mapula stopped, what happened next?
 A: I looked at PO1 Allan Mapula and the confidential informant and I noticed that the confidential informant went near the parlor, sir.
 Q: And when Mapula and the confidential informant went near the parlor, what happened next?
 A: After a while, the confidential informant called Mapula and they conversed with alias Freddie, sir.
 Q: Who conversed with alias Freddie?
 A: I saw the confidential informant and Freddie talking while PO1 Allan Mapula was at the back, sir.
 Q: And what happened next, if any?
 A: I saw Allan Mapula handed money, sir.
 Q: [T]o whom?
 A: To Alias Freddie, sir.
 Q: And after that, what happened next?
 A: In return, something was also handed to PO1 Allan Mapula, sir.
 Q: Who handed that something to Mapula?
 A: Alias Freddie, sir.

the accused freely and consciously possessed the drug.”²² When asked to empty his pocket, accused-appellant produced therefrom two (2) more transparent plastic sachets containing white substance, which also tested positive for *shabu*. Such possession was likewise unauthorized by law.

The defense posits that the equipoise rule should have been applied in his favor inasmuch as the testimonies of the witnesses for the prosecution and the defense are all self-serving.

We cannot agree. The equipoise rule does not apply because the testimonies of the prosecution witnesses are, in fact, credible based on settled legal principles and doctrines applicable to the particular factual circumstances of the case.

Thus, we have said, time and again, that “findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings.”²³ Also, “the determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, is accorded full weight and credit as well as great respect, if not conclusive effect.”²⁴

We find nothing in the records that would justify a deviation from the findings of the trial court and the appellate court. Supported by evidence, the arresting officers rendered a straightforward narration of the details of the operation relative to the following: (1) the receipt of an information as to the illegal drugs activity in the area where accused-appellant was apprehended; (2) the organization of the buy-bust team; (3) the preparations made for the purpose; (4) the entrapment itself leading to the arrest of accused-appellant; (5) the marking of the seized items; and (6) the eventual delivery of the specimens to the crime laboratory.

Neither did the defense prove that there was ill-motive or bad faith on the part of the team to falsely impute upon him the commission of these grave offenses.²⁵ The doctrine of presumption of regularity in the

²² *People v. Bautista*, *supra* note 18 at 530 citing *People v. Naquita*, *supra*.

²³ *People v. Presas*, G.R. No. 182525, 2 March 2011, 644 SCRA 443, 449 citing *People v. Pagkalinawan*, G.R. No. 184805, 3 March 2010, 614 SCRA 202, further citing *People v. Julian-Fernandez*, 423 Phil. 895, 910; 372 SCRA 608, 622 (2001).

²⁴ *People v. Sbadlab*, G.R. No. 186392, 18 January 2012, 663 SCRA 426, 440-441 citing *People v. Mayingque*, G.R. No. 179709, 6 July 2010, 624 SCRA 123, 140.

²⁵ TSN, 14 January 2004, p. 20.

The accused testified in the following manner:

performance of official duty, therefore, applies. As explained in *People v. Tion*:²⁶

x x x Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies on the buy-bust operation deserve full faith and credit. **Settled is the rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers, for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary suggesting ill motive on the part of the police officers or deviation from the regular performance of their duties.** The records do not show any allegation of improper motive on the part of the buy-bust team. Thus, the presumption of regularity in the performance of duties of the police officers must be upheld.²⁷ (*Citations omitted; emphasis supplied*)

Necessarily, the finding of the credibility of the testimonies of the arresting officers should prevail over the testimonies of the accused-appellant and his friend-witnesses especially so when their respective testimonies were inconsistent on material points.

Witness Millare testified that upon peeping through the window and seeing accused-appellant in handcuffs, he shouted, “*Pare, anong kasalanan mo, bakit ka nakaposas?*”²⁸ On the other hand, dela Cruz testified that Millare was upstairs when the latter shouted “*Pare, ano ba ‘yang nangyayari d’yan sa baba at bakit ka hinuhuli?*”²⁹

Even assuming that these were not substantial enough to doubt the credibility of the testimonies of the defense witnesses, we cannot simply disregard the contradicting testimonies of the accused-appellant on one hand and his witnesses on the other as to the place where the arrest was made.

COURT –

By the way, how long have you known [Familara] and Mapula before that incident when you were arrested?

A – I only came to know them at the police station, Your Honor.

COURT –

So you did not know these two (2) police officers who arrested you before you were arrested?

A – No, Your Honor.

COURT –

You do not know of any reason why they would arrest you because you are claiming that you did not commit any violation of the drugs act?

A – None, Your Honor.

²⁶ G.R. No. 172092, 16 December 2009, 608 SCRA 299.

²⁷ *Id.* at 316-317.

²⁸ TSN, 10 March 2004, p. 8.

²⁹ TSN, 23 June 2004, p. 11 (Emphasis supplied).

From the context of the testimony of accused-appellant on cross-examination, he was arrested outside his house in front of his drinking buddies Millare and dela Cruz. Pertinent portions of the transcript of stenographic notes read:

Q - What were you exactly doing when the police officers arrived and grabbed you?

A - I was on my way home, I was actually closing the gate, sir.

Q - Do I take it to mean that you were already alone, [M]r. Witness?

A - No, sir **in front of me were my two (2) friends**, sir.

x x x x

Q - If I remember it clearly, you said that you have a live-in partner?

A - Yes, sir.

Q - **Was she present at the time of the arrest?**

A - **She was inside our house, sir.**

Q - **Did she see what happened?**

A - **When I was already handcuffed, yes, sir.** (Emphasis supplied)³⁰

Accused-appellant's two (2) witnesses, on the other hand, implied clearly that the arrest was made inside the house considering that the arresting officers followed accused-appellant inside the house and there they saw, upon peeping through the window, that their friend was already handcuffed.

In *People v. Concepcion*,³¹ the Court had the occasion to rule on the credibility of the witnesses with two conflicting statements on the place of arrest. It held:

The testimony of defense witness Julieta dela Rosa does not convince us. As the wife of appellant Alfredo and sister-in-law of appellant Henry, we find her not to be credible. Her testimony is suspect and unsubstantiated. In her direct testimony, she said her husband, appellant Alfredo, was outside their house with his friends. However, such statement was belied by Alfredo himself who said he was inside his house when he was allegedly arrested by members of the PDEA. Such inconsistency as to where appellant Alfredo was when the alleged unlawful arrest was made, further diminishes the credibility of the defense witnesses.³²

³⁰ TSN, 14 January 2004, pp. 15-18.

³¹ G.R. No. 178876, 27 June 2008, 556 SCRA 421.

³² *Id.* at 444.

Further, in *Aurelio v. People*,³³ the Court discussed the weight given to the testimonies of a long-time neighbor and a sister, who rendered contradicting statements, *viz*:

The testimonies of the petitioner's witnesses cannot be given more weight than the testimonies of the prosecution witnesses. Teresita is the sister of the petitioner while Julieta has been his neighbor for the past 10 years. Thus, their testimonies are necessarily suspect, considering they are petitioner's sibling and friend respectively. The testimonies of Julieta and Teresita even contradict each other as Teresita declared that five malefactors entered their home while Julieta stated that only two men went with petitioner inside his house. This inconsistency further diminishes the credibility of petitioner's witnesses.³⁴

In its Motion for Reconsideration of the Decision of 28 May 2010, the defense further argued that the prosecution failed to prove the unbroken chain of custody of the drugs seized.

We are not convinced. The Court of Appeals correctly ratiocinated, and we quote:

The identity of the sachets of *shabu* confiscated and the continuous chain of custody was established by the prosecution. An adequate foundation establishing a continuous chain of custody is said to have been established if the State accounts for the evidence at each stage from its acquisition to its testing, and to its introduction at trial. In this case, it was shown that after the three sachets of *shabu* were confiscated from appellant, they were marked by PO1 Mapula and PO1 Familara. At the police station, the seized drugs were the subject of a Request for Examination by SPO4 Danilo M. Tuano. Said drugs were then personally delivered by PO1 Mapula to the PNP Crime Laboratory, at the Eastern Police District Crime Laboratory. Subsequently, qualitative tests were conducted and the test results, presented in evidence confirmed that the specimen contained *shabu*. During trial, PO1 Mapula identified the plastic sachet marked with "AVM" as the same sachet containing *shabu* which he bought from appellant. Likewise, PO1 Familara positively identified the two sachets of *shabu* marked with "MRF" and "FLC" as the same ones recovered from appellant's possession.

Moreover, in the Stipulation of Facts by the parties during the Pre-Trial Conference, the genuineness and due execution of *Forensic Chemistry Report No. D-849-03E* and the truth of its contents were admitted by appellant. It was therefore established that the sachets recovered from appellant contained methamphetamine hydrochloride or *shabu*.³⁵ (Citations omitted)

As to the penalties for the crimes committed, the law provides that the

³³ G.R. No. 174980, 31 August 2011, 656 SCRA 464.

³⁴ *Id.* at 482-483 citing *People v. Concepcion*, G.R. No. 178876, 27 June 2008, 556 SCRA 421, 444.

³⁵ CA *rollo*, pp. 93- 94. Decision dated 28 May 2010.

penalty of life imprisonment and a fine ranging from Five Hundred Thousand (₱500,000.00) Pesos to Ten Million Pesos (₱10,000,000.00) shall be imposed upon any person found guilty of the crime of illegal sale of *shabu*.³⁶ The crime of illegal possession of *shabu* weighing less than five (5) grams is punishable by 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).³⁷

The Indeterminate Sentence Law,³⁸ in turn, provides that “if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.”³⁹

Accordingly, with respect to Criminal Case No. 12472-D for illegal sale of *shabu*, the Court of Appeals correctly affirmed the penalty of life imprisonment imposed by the trial court. The fine of Five Hundred Thousand Pesos (₱500,000.00) is also within the range of the fine prescribed under Section 5 of R.A. 9165.⁴⁰ The modification of the penalty imposed in Criminal Case No. 12473-D for illegal possession of *shabu* from *six (6) years and one (1) day of prision mayor as minimum to twelve (12) years and one (1) day of reclusion temporal as maximum to imprisonment of*

³⁶ **Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.** – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

³⁷ x x x x.
Section 11. Possession of Dangerous Drugs. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.0) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

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

x x x x

3. Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of xxx, methamphetamine hydrochloride or “shabu”, or x x x.

³⁸ Act No. 4103, as amended.

³⁹ Section 1, Act No. 4103, as amended.

⁴⁰ *People v. Sabadlab*, *supra* note 24 at 441.

twelve (12) years and one (1) day as minimum, to fourteen (14) years and eight (8) months as maximum, and payment of a fine of three hundred thousand pesos (₱300,000.00) is likewise in order.⁴¹


WHEREFORE, the Decision dated 28 May 2010 of the Court of Appeals in CA-G.R. CR-HC No. 00396 is **AFFIRMED in toto**.

SO ORDERED.



JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice

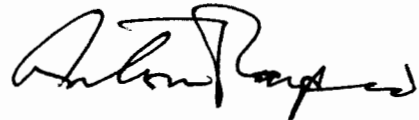

MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

⁴¹ *Asiatco v. People*, G.R. No. 195005, 12 September 2011, 657 SCRA 443, 452 citing *Balarbar v. People*, G.R. No. 187483, 14 April 2010, 618 SCRA 283, 288.

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO**

Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO**

Chief Justice