



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 190621

Present:

- versus -

GLENN SALVADOR y BALVERDE,
and DORY ANN PARCON y DEL
ROSARIO,
Accused,

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

GLENN SALVADOR y BALVERDE,
Accused-Appellant.

Promulgated:
FEB 10 2014

X ----- X

DECISION

DEL CASTILLO, J.:

In a buy-bust operation, the failure to conduct a physical inventory and to photograph the items seized from the accused will not render his arrest illegal or the items confiscated from him inadmissible in evidence as long as the integrity and evidentiary value of the said items have been preserved.¹

Factual Antecedents

For review is the Decision² dated September 24, 2009 of the Court of Appeals (CA) in CA-G.R. CR H.C. No. 03230 that affirmed *in toto* the January 15, 2008 Decision³ of the Regional Trial Court (RTC), Branch 82, Quezon City, in Criminal Case Nos. Q-03-120799-800. The said RTC Decision found Glenn Salvador y Balverde (appellant) guilty beyond reasonable doubt of violation of Section 5 (illegal sale), and accused Dory Ann Parcon y Del Rosario (Parcon) guilty beyond reasonable doubt of violation of Section 11 (illegal possession),

¹ *People v. De Jesus*, G.R. No. 198794, February 6, 2013, 690 SCRA 180,199.
² *CA rollo*, pp. 125-137; penned by Associate Justice Bienvenido L. Reyes (now a member of this court) and concurred in by Associate Justices Japar B. Dimaampao and Antonio L. Villamor.
³ Records, pp. 235-241; penned by Judge Severino B. De Castro, Jr.

both of Article II, Republic Act No. 9165 (RA9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Information⁴ for violation of Section 5, Article II of RA 9165 filed against appellant in Criminal Case No. Q-03-120799 has the following accusatory portion:

That on or about the 3rd day of September, 2003 in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there, willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, one (1) plastic sachet of white crystalline substance containing zero point zero four (0.04) gram of Methylamphetamine Hydrochloride a dangerous drug.

CONTRARY TO LAW.⁵

While the pertinent portion of the Information⁶ for violation of Section 11 of Article II, RA 9165 filed against Parcon in Criminal Case No. Q-03-120800 is as follows:

That on or about the 3rd day of September, 2003 in Quezon City, Philippines, the said accused, not being authorized by law to possess or use any dangerous drug, did then and there willfully, unlawfully and knowingly have in his/her possession and control one (1) plastic sachet of white crystalline substance containing zero point zero four (0.04) gram of Methylamphetamine Hydrochloride a dangerous drug.

CONTRARY TO LAW.⁷

Upon motion of the prosecution,⁸ the cases were consolidated. On November 4, 2003, appellant and Parcon were arraigned. They entered separate pleas of 'not guilty'.⁹

During the pre-trial conference, appellant admitted the following facts which the prosecution offered for stipulation:

x x x [T]hat [Police Inspector Leonard T. Arban (P/Insp. Arban)] is a Forensic Chemist of the PNP; that he received a letter-request for Laboratory Examination for certain specimen which was marked as Exhibit "A"; that together with the

⁴ Id. at 2-3

⁵ Id. at 2.

⁶ Id. at 6-7.

⁷ Id. at 6.

⁸ See Motion for Consolidation, id. at 1.

⁹ Id. at 29.

said request is a brown envelope marked as Exhibit “B”; that said brown envelope contained a plastic sachet marked as Exhibit “B-1” and thereafter he conducted the examination of the said specimen and submitted a report marked as Exhibit “C”; the findings thereon that the specimen was positive for Methylamphetamine Hydrochloride was marked as Exhibit “C-1” and the signature of the said police officer was marked as Exhibit “C-2”. Thereafter, said police officer turned over the said evidence to the Evidence Custodian and retrieved the same for purposes of the hearing today.¹⁰

Trial ensued. Parcon failed to attend the scheduled hearings, hence, she was tried *in absentia*.¹¹

Version of the Prosecution

The prosecution presented PO2 Sofjan Soriano (PO2 Soriano) to testify on the entrapment operation that resulted in the arrest of appellant and Parcon. From his testimony,¹² the following facts emerged:

While PO2 Soriano was on duty in Police Station 2, Baler Street, Quezon City on September 2, 2003, a confidential informant (CI) arrived at around 9:00 a.m. and reported that a certain alias Bumski was engaged in the illicit sale of dangerous drugs in *Barangay* Pag-asa, Quezon City. PO2 Soriano immediately relayed this information to Police Chief Inspector Joseph De Vera (P/C Insp. De Vera). A surveillance operation conducted the same day on alias Bumski, who turned out to be the appellant, confirmed the report. Thus, a police team was formed to conduct a buy-bust operation. PO2 Soriano was designated as poseur-buyer while PO2 Richard Vecida, PO1 Alexander Pancho, PO1 Alvin Pineda (PO1 Pineda) and P/C Insp. De Vera would serve as his backup.

At around 2:45 p.m. of September 3, 2003, the team arrived at Road 10, *Barangay* Pag-asa, Quezon City. PO2 Soriano and the CI proceeded to appellant’s house while the rest of the buy-bust team positioned themselves within viewing distance. The CI introduced PO2 Soriano to appellant as a drug dependent who wanted to purchase ₱200.00 worth of *shabu*. During their conversation, Parcon arrived and asked appellant for *shabu*. Appellant gave her a small heat-sealed plastic sachet that she placed in her coin purse. Thereafter, PO2 Soriano handed to appellant the buy-bust money consisting of two 100-peso bills and the latter, in turn, gave him a heat-sealed plastic sachet containing white crystalline substance. PO2 Soriano then immediately arrested appellant and recovered from his right hand pocket the buy bust money. At this juncture, PO2 Soriano’s teammates rushed to the scene. PO1 Pineda arrested Parcon and recovered from her a plastic sachet also containing white crystalline substance.

¹⁰ Id. at 36.

¹¹ Id. at 91.

¹² TSN, September 6, 2004, pp. 4-8; TSN, January 12, 2005, pp. 2-5.

Appellant and Parcon were then taken to the Baler Police Station. The items recovered during the buy-bust operation were marked by PO2 Soriano as “SJ-03” and “AP-03” and turned over to the designated investigator, PO1 Vicente Calatay (PO1 Calatay). PO1 Calatay then prepared a letter-request for laboratory examination, which, together with the confiscated specimen, was brought by PO2 Soriano to the PNP Crime Laboratory.

The prosecution intended to present PO1 Calatay and PO1 Pineda as witnesses, but their testimonies were likewise dispensed with after the defense agreed to stipulate on the following facts:

PO1 Calatay

[T]hat he was the police investigator assigned to investigate these cases; that in connection with the investigation that he conducted, he took the Joint Affidavit of Arrest of PO2 Richard Vecida, PO2 Sofjan Soriano, PO1 Alvin Pineda, and PO1 Alexander Pancho marked as Exhibits “F” and “F-1”; that the specimen[s] consisting of two (2) plastic sachets marked as Exhibits “B-1” and “B-2” were turned over to him by the arresting officers; that in connection therewith, he prepared the request for laboratory examination marked as Exhibit “A” and received a copy of the Chemistry Report, the original of which was earlier marked as Exhibit “C”; that the buy-bust money consisting of two (2) pieces of Php100.00 bill marked as Exhibits “D” and “E” were likewise turned over to him by the arresting officer; that he thereafter prepared a letter referral to the Office of the City Prosecutor of Quezon City marked as Exhibits “G” and “G-1”.¹³

PO1 Pineda

[T]hat he was part of the buy-bust team which conducted a buy[-]bust operation on September 3, 2003 at about 2:45 a.m. at Road 10, Pag-asa, Quezon City; that he acted as back-up to PO2 Sofjan Soriano, the poseur buyer in the said operation; that he was with PO2 [Richard] Vecida and PO1 Alexander Pancho during said operation; that after the consummation of the transaction between PO2 Sofjan Soriano and Glenn Salvador, he assisted in the arrest of accused Doryann Parcon; that upon [body] search of accused Parcon, he recovered from the latter a plastic sachet containing white crystalline substance; that said plastic sachet was marked as Exhibit “B-2”.¹⁴

Version of the Defense

In his testimony,¹⁵ appellant claimed that at about 11:00 p.m. of September 2, 2003, he was parking his tricycle outside his residence at 135 Road 10, Brgy. Pag-asa, Quezon City when a patrol car suddenly stopped in front of his house. Three policemen alighted, aimed their guns at him, and forced him to board their vehicle. Already inside were two men in handcuffs sitting on the floor. The police car then proceeded to Police Station 2 in Baler, Quezon City, where he and the two other men were taken to a room and frisked by policemen who demanded

¹³ Records, p. 155.

¹⁴ Id. at 162.

¹⁵ TSN, November 6, 2007, pp. 3-7.

₱20,000.00 from each of them. They were told to call their relatives to inform them of their arrest for engaging in a pot session. When appellant refused to oblige, PO2 Soriano said to him: “*matigas ka, hindi ka marunong makisama dapat sayo ikulong.*” He was thereafter detained and no longer saw the two men he mentioned. Two days later, he was presented to the Prosecutor’s Office for inquest.

Appellant accused the police officers of falsehood but could not file a case against them since his parents were in the United States of America and he did not know anyone else who could help him. He denied knowing Parcon and the arresting officers and claimed that he saw Parcon for the first time during the inquest and the arresting officers when they arrested him.

Ruling of the Regional Trial Court

The RTC held that the evidence adduced by the prosecution established beyond reasonable doubt the guilt of appellant and Parcon for the crimes charged. It did not find impressive appellant’s claim of extortion by the police officers and instead upheld the buy-bust operation which it found to have been carried out with due regard to constitutional and legal safeguards. It ruled that absent proof of evil motive on the part of the police, the presumption of regularity which runs in their favor stands. Thus, the dispositive portion of the RTC’s Decision:

WHEREFORE, premises considered, judgment is hereby rendered finding accused GLENN SALVADOR y BALVERDE *guilty* beyond reasonable doubt of a violation of Section 5, Article II of R.A. No. 9165 charged in Criminal Case No. Q-03-120799. Accordingly, he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine in the amount of Five Hundred Thousand (₱500,000.00) PESOS.

On the other hand, judgment is likewise rendered in Criminal Case No. Q-03-120800 finding accused DORY ANN PARCON y DEL ROSARIO *guilty* beyond reasonable doubt of a violation of Section 11, Article II of the same Act. Accordingly, she is hereby sentenced to suffer the indeterminate penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY as MINIMUM to FOURTEEN (14) YEARS as MAXIMUM and to pay a fine in the amount of THREE HUNDRED THOUSAND (P300,000.00) PESOS.

SO ORDERED.¹⁶

Ruling of the Court of Appeals

Appellant filed a Notice of Appeal.¹⁷ In his Brief,¹⁸ he imputed to the RTC

¹⁶ Records, p. 241.

¹⁷ Id. at 264.

¹⁸ CA *rollo*, pp. 51-68.

the following errors:

I

THE TRIAL COURT SERIOUSLY ERRED IN DECLARING THE GUILT OF THE ACCUSED-APPELLANT DESPITE THE NON-COMPLIANCE WITH THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS UNDER R.A. No. 9165.

II

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION'S EVIDENCE NOTWITHSTANDING THE FAILURE OF THE APPREHENDING TEAM TO PROVE ITS INTEGRITY.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT BASED ONLY ON PO2 SOFJAN SORIANO'S TESTIMONY.¹⁹

Aside from the prosecution's failure to prove the elements constituting the crime of illegal sale of *shabu*, appellant asserted that the apprehending officers failed to immediately conduct a physical inventory of the seized items and photograph the same as mandated by Section 21 of the Implementing Rules of RA 9165; that the chain of custody was broken since PO2 Soriano could not determine with certainty whether the plastic sachet allegedly seized from him was the same specimen subjected to laboratory examination; that the prosecution was unable to substantiate its claim that the two 100-peso bills were the same money used in purchasing *shabu* since the said bills were neither dusted with fluorescent powder nor was he subjected to fingerprint examination; that the failure to coordinate the buy-bust operation with the Philippine Drug Enforcement Agency (PDEA) was prejudicial to his substantive right; and, that PO2 Soriano and the buy-bust team did not accord him due process by failing to apprise him of his rights after he was arrested.

The People of the Philippines, on the other hand, through the Office of the Solicitor General (OSG) asserted in its Brief²⁰ that the Decision of the RTC must be affirmed since the guilt of appellant was established beyond reasonable doubt; that the prosecution proved all the elements of the illegal sale of drugs; that the testimonies of the police officers who conducted the buy-bust operation and their positive identification of appellant as the seller of the *shabu* prevail over the latter's denial; that the chain of custody of the illegal drug seized from appellant was sufficiently established; that the failure to use fluorescent powder in the marked money does not result in a failure of the buy-bust operation since the same is not a prerequisite to such operation; that the failure of the law enforcers to conduct a physical inventory or to photograph the seized items in accordance with

¹⁹ Id. at 53-54.

²⁰ Id. at 79-115.

Section 21, Article II of RA 9165 is not fatal; that the failure of the buy-bust team to coordinate with the PDEA does not invalidate appellant's arrest; that PO2 Soriano's failure to recall the markings on the specimen shows that he was not coached as a witness; that appellant's defenses of denial and frame-up are unconvincing; and that the failure to apprise appellant of his constitutional rights at the time of his arrest is not fatal since such rights apply only against extrajudicial confessions.

In its Decision, the CA affirmed the findings of the RTC. Anent the defects in the chain of custody alleged by appellant, the said court ruled that the evidence proved beyond reasonable doubt that the illegal drugs sold by appellant to PO2 Soriano was taken to the police station and marked therein and then forwarded to the crime laboratory where it was found positive for *shabu*; the marked money used in the buy-bust operation was the same money introduced in evidence; and that the failure of the arresting team to faithfully observe the requirements of conducting physical inventory and coordinating the buy-bust operation with PDEA are not fatal since the integrity and evidentiary value of the confiscated items were preserved. Thus, the dispositive portion of the CA's Decision, *viz*:

WHEREFORE, in consideration of the foregoing premises, the instant appeal is perforce *dismissed*. Accordingly, the assailed decision dated January 15, 2008 insofar as the accused-appellant Glenn Salvador Y Balverde is *affirmed in toto*.

SO ORDERED.²¹

Appellant filed a Notice of Appeal.²²

On February 8, 2010, the parties were directed to file their supplemental briefs.²³ The OSG opted to adopt the brief it submitted before the CA as its appeal brief while appellant filed a Supplemental Brief²⁴ which, however, contains practically the same arguments he advanced before the CA. Again, aside from questioning the finding of guilt beyond reasonable doubt against him, appellant questions the arresting officers' alleged failure to comply with the chain of custody rule.

Our Ruling

The appeal is unmeritorious.

²¹ Id. at 137.

²² Id. at 140-141.

²³ *Rollo*, p. 20.

²⁴ Id. at 27-38.

All the elements for the prosecution of illegal sale of shabu were sufficiently established in this case.

In a successful prosecution for illegal sale of dangerous drugs, like *shabu*, the following elements must be established: “(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. x x x What is material in a prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti*”²⁵ or the illicit drug in evidence. “[T]he commission of the offense of illegal sale of dangerous drugs x x x merely requires the consummation of the selling transaction, which happens the moment the exchange of money and drugs between the buyer and the seller takes place.”²⁶

In this case, the prosecution successfully established all the elements of illegal sale of *shabu*. The testimony of PO2 Soriano reveals that an entrapment operation was organized and conducted after they confirmed through a surveillance operation the information that appellant is engaged in drug peddling activities. Designated as a poseur-buyer, PO2 Soriano, together with the CI, approached appellant outside his residence. After having been introduced by the CI to appellant as a drug user, PO2 Soriano asked appellant if he could purchase ₱200.00 worth of *shabu*. PO2 Soriano handed to appellant the marked money consisting of two ₱100 bills and the latter, in turn, gave him a plastic sachet of *shabu*. PO2 Soriano then arrested appellant and recovered the buy-bust money from the latter. Immediately thereafter his back-up who were monitoring the transaction from viewing distance arrived. Forensic examination subsequently confirmed that the contents of the sachets bought from appellant and recovered from Parcon were indeed *shabu*.

Prosecutions for illegal drugs depend largely on the credibility of the police officers who conducted the buy-bust operation. Their narration of the incident, “buttressed by the presumption that they have regularly performed their duties in the absence of convincing proof to the contrary, must be given weight.”²⁷ Here, the CA affirmed the RTC’s ruling that the testimonies and facts stipulated upon were consistent with each other as well as with the physical evidence. Thus, there is no justification to disturb the findings of the RTC, as sustained by the CA, on the matter.

²⁵ *People v. Dilao*, 555 Phil. 394, 409 (2007).

²⁶ *People v. Alviz*, G.R. No. 177158, February 6, 2013, 690 SCRA 61, 70.

²⁷ *People v. Llanita*, G.R. No. 189817, October 3, 2012, 682 SCRA 288, 300-301.

The defenses of denial and frame-up are unavailing.

The Court cannot convince itself to reverse the finding of facts of the lower courts on the basis of appellant's self-serving allegations of denial and extortion/frame-up.

Denial cannot prevail against the positive testimony of a prosecution witness. "A defense of denial which is unsupported and unsubstantiated by clear and convincing evidence becomes negative and self-serving, deserving no weight in law, and cannot be given greater evidentiary value over convincing, straightforward and probable testimony on affirmative matters."²⁸

Appellant cannot likewise avail of the defense of frame-up which "is viewed with disfavor since, like alibi, it can easily be concocted and is a common ploy in most prosecutions for violations of the Dangerous Drugs Law."²⁹ To substantiate this defense, the evidence must be clear and convincing and should show that the buy-bust team was inspired by improper motive or was not properly performing its duty.³⁰ Here, there is no evidence that there was ill motive on the part of the buy-bust team. In fact, appellant himself admitted that he did not know the police officers prior to his arrest. There could therefore be no bad blood between him and the said police officers. Moreover, there was no proof that the arresting officers improperly performed their duty in arresting appellant and Parcon.

Non-compliance with Section 21, Article II of Republic Act No. 9165 is not fatal.

In arguing for his acquittal, appellant heavily relies on the failure of the buy-bust team to immediately photograph and conduct a physical inventory of the seized items in his presence. In this regard, Section 21(1), Art. II of RA 9165 provides:

Sec. 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

²⁸ *People v. Alberto*, G.R. No. 179717, February 5, 2010, 611 SCRA 706, 714.

²⁹ *Id.*

³⁰ *People v. Alviz*, supra note 26 at 71, citing *People v. Capalad*, G.R. No. 184174, April 7, 2009, 584 SCRA 717, 727.

- (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;

However, failure to strictly comply with the above procedure will not render an arrest illegal or the seized items inadmissible in evidence. Substantial compliance is allowed as provided for in Section 21(a) of the Implementing Rules and Regulations of RA 9165.³¹ This provision reads:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; ***Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.*** (Emphasis supplied).

The failure of the prosecution to show that the police officers conducted the required physical inventory and photographed the objects confiscated does not *ipso facto* result in the unlawful arrest of the accused or render inadmissible in evidence the items seized. This is due to the *proviso* added in the implementing rules stating that it must still be shown that there exists justifiable grounds and proof that the integrity and evidentiary value of the evidence have not been preserved.³² “What is crucial is that the integrity and evidentiary value of the seized items are preserved for they will be used in the determination of the guilt or innocence of the accused.”³³

The links in the chain of custody must be established.

³¹ *People v. Llanita*, supra note 27 at 305.

³² *People v. Rivera*, G.R. No. 182347, October 17, 2008, 569 SCRA 879, 898.

³³ *People v. Manalao*, G.R. No. 187496, February 6, 2013, 690 SCRA 106, 119.

“The integrity and evidentiary value of seized items are properly preserved for as long as the chain of custody of the same are duly established.”³⁴ “‘Chain of Custody’ means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court. Such record of movements and custody of seized item shall include the identity and signature of the person who had temporary custody of the seized item, the date and time when such transfer of custody was made in the course of safekeeping and use in court as evidence, and the final disposition.”³⁵

There are links that must be established in the chain of custody in a buy-bust situation, namely: “*first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and, *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.”³⁶

In this case, the prosecution established clearly the integrity and evidentiary value of the confiscated *shabu*. There is no evidence that PO2 Soriano lost possession and control of the seized *shabu* from the time it was recovered from the appellant until its turnover to the police station. He marked the seized item immediately upon arrival at the police station. He turned it over to PO1 Calatay, the investigating officer, who prepared the letter request for the laboratory examination of the contents of the plastic sachets. These facts were admitted by the appellant.³⁷

On the same day, PO2 Soriano personally brought the letter request and specimens to the PNP Crime Laboratory where they were received by Forensic Chemist P/Insp. Arban who conducted the examination on the specimens submitted. During the pre-trial conference, appellant admitted the purpose for which P/Insp. Arban’s testimony was being offered.³⁸ The marked sachet of *shabu* and the marked money used in purchasing the same were both presented in evidence.

Appellant’s contention that the marking of the seized sachets of *shabu* should have been made in his presence while at the scene of the crime instead of in

³⁴ *People v. Alviz*, supra note 26 at 76.

³⁵ Section 1(b) of the Dangerous Drugs Board Regulation No. 1, Series of 2002; re Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment.

³⁶ *People v. Kamad*, G.R. No. 174198, January 19, 2010, 610 SCRA 295, 307-308.

³⁷ See Records, p. 155.

³⁸ *Id.* at 36.

the police station fails to impress. It is clear from the earlier cited Sec. 21(a) of the Implementing Rules and Regulations of RA 9165 that in a buy-bust situation, the marking of the dangerous drug may be done in the presence of the violator in the nearest police station or the nearest office of the apprehending team. Appellant should not confuse buy-bust situation from search and seizure conducted by virtue of a court-issued warrant. It is in the latter case that physical inventory (which includes the marking) is made at the place where the search warrant is served. Nonetheless, “non-compliance with [the] 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.”³⁹

Appellant’s claim that the testimony of PO2 Soriano does not deserve credence due to his failure to identify and/or recall the markings he made on the subject specimen also fails to convince. His failure to immediately recall the markings on the specimens only show that he is an uncoached witness.⁴⁰ “Such momentary lapse in memory does not detract from the credibility of his testimony as to the essential details of the incident.”⁴¹ It must also be considered that aside from the fact that police officers handle numerous cases daily, he testified three years after appellant’s arrest. It is therefore understandable that PO2 Soriano could no longer easily remember all the details of the incident.

Lastly, appellant’s argument that the entrapment operation is fatally flawed for failure of the buy-bust team to coordinate with the PDEA deserves scant consideration. “[C]oordination with PDEA, while perhaps ideal, is not an indispensable element of a proper buy-bust operation;”⁴² it is not invalidated by mere non-coordination with the PDEA.⁴³

Penalty

All told, there is no reason to disturb the finding of the RTC, as affirmed by the CA, that appellant is guilty beyond reasonable doubt of illegal sale of *shabu*, as defined and penalized under Section 5, Article II of RA 9165. Under this law, the penalty for the unauthorized sale of *shabu*, regardless of its quantity and purity, is life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10 million. However, with the enactment of RA 9346,⁴⁴ only life imprisonment and fine shall be imposed.⁴⁵ Thus, the penalty imposed by the RTC and affirmed by the CA is proper.

³⁹ Implementing Rules and Regulations of Republic Act No. 9165, Sec. 21(a).

⁴⁰ *People v. Dilao*, supra note 25 at 406.

⁴¹ *Id.*

⁴² *People v. Adrid*, G.R. No. 201845, March 6, 2013, 692 SCRA 683, 696.

⁴³ *Id.*, quoting *People v. Roa*, G.R. No. 186134, May 6, 2010, 620 SCRA 359, 368-370.

⁴⁴ AN ACT PROHIBITING THE IMPOSITION OF THE DEATH PENALTY IN THE PHILIPPINES.

⁴⁵ *People v. Abedin*, G.R. No. 179936, April 11, 2012, 669 SCRA 322, 339.

WHEREFORE, the appeal is **DISMISSED**. The Decision of the Court of Appeals that affirmed *in toto* the Decision of the Regional Trial Court of Quezon City, Branch 82, insofar as the conviction of Glenn Salvador y Balverde for violation of Section 5, Article II of Republic Act No. 9165, as amended by Republic Act No. 9346, and the penalty of life imprisonment and payment of fine of ₱500,000.00 imposed upon him are concerned, is **AFFIRMED**.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CAPIO
Associate Justice
Chairperson

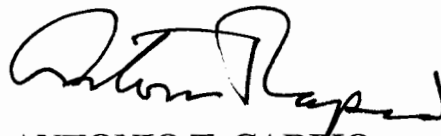

ARTURO D. BRION
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest 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.



ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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

