



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

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

G.R. No. 190177

Present:

- versus -

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

**VIVIAN BULOTANO y
AMANTE,**
Accused-Appellant.

Promulgated:

JUN 11 2014

X -----X

DECISION

PEREZ, J.:

In the prosecution of a case for sale of illegal drugs punishable under Section 5, Article II of Republic Act No. 9165, noncompliance with the procedure set forth in Section 21 of the law is not necessarily fatal as to render an accused's arrest illegal or the items confiscated from him inadmissible as evidence of his guilt, if, nonetheless, the integrity and evidentiary value of the confiscated items is preserved, there will yet be basis for the establishment of the guilt of the accused.¹

¹ *People v. Pringas*, 558 Phil. 579, 593 (2007).

Under review is the conviction of Vivian A. Bulotano (Bulotano) for illegal sale of *shabu*, punishable under the “Comprehensive Dangerous Drugs Act of 2002”. The challenged decision is the Decision² of the Court of Appeals (CA) dated 23 July 2009, which affirmed the Decision³ of the Regional Trial Court (RTC) dated 10 August 2005 in Criminal Case No. 2004-727.

The facts as culled from the records are as follows:

Upon a tip-off, a team of agents from the Philippine Drug Enforcement Agency (PDEA) conducted a buy-bust operation in Barangay 31, Sto. Niño, Cagayan de Oro City, to entrap Bulotano for allegedly selling illegal drugs or *shabu*.

Acting as poseur-buyers, PO1 Dizon Dagaraga (PO1 Dagaraga), together with an informant, approached Bulotano, who was playing a card game with two (2) other persons inside a billiard hall. When Bulotano noticed the two, she approached them and asked what they were looking for. PO1 Dagaraga replied that he wants to buy ₱200.00 worth of *shabu*. After Bulotano handed PO1 Dagaraga a transparent plastic sachet containing crystals, PO1 Dagaraga handed Bulotano marked money in the amount of ₱200.00.

Immediately, PO1 Dagaraga went out of the billiard hall to call the back-up officers to arrest Bulotano.

During her arrest, PO1 Cotta Tanggote informed Bulotano of the reason for her arrest and of her constitutional rights. Bulotano was brought to the PDEA- Region 10 Office at Cagayan De Oro City for her inquest for violation of Republic Act No. 9165.

Bulotano was then brought to the PNP Crime Laboratory where she was asked for her urine sample. When tested, the result came positive for Methamphetamine Hydrochloride or *shabu*.⁴ The laboratory examination by the PNP Crime Laboratory of the transparent plastic sachet containing

² Penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justices Elihu A. Ybañez and Ruben C. Ayson concurring, Court of Appeals-Mindanao Station, Twenty-Third Division, CA-G.R. CR-HC No. 00254-MIN; CA *rollo*, pp. 56-63.

³ Penned by Judge Noli T. Catli, RTC, Branch 25, Misamis Oriental, Crim. Case No. 2004-727; id. at 24-28.

⁴ Exhibit “D”, records, p. 108.

crystalline substance also tested positive for 0.10 gram of Methamphetamine Hydrochloride or *shabu*.⁵

As her defense, Bulotano claims that during her arrest, she was merely playing a card game when three (3) armed men suddenly barged into the billiard hall and approached her. According to Bulotano, one of the three (3) armed men introduced himself as a policeman, after which, she was brought outside and made to board a police vehicle. Bulotano further claims that during the entire incident, she was in a state of shock and was never informed of the reason for her arrest, as well as of her constitutional rights. Contrary to the prosecution's allegation of facts, Bulotano claims that she found out the reason for her arrest only upon arrival at the PDEA-Region 10 Office, where PO1 Dagaraga made her sign an inventory receipt of the illegal drugs allegedly seized from her.

One Joel Flores was presented in support of the defense. Essentially, he testified that there was no buy-bust operation which took place and that the PDEA agents just suddenly barged into the billiard hall and poked a gun at Bulotano's forehead.⁶

Bulotano entered a plea of not guilty on the Information which reads:

That on or about September 6, 2004, at 6:00 o'clock P.M., at Sto. Niño Brgy. 31, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver, distribute and give away one (1) small sachet heat sealed transparent plastic cellophane containing 0.10 gram of met[h]amphetamine hydrochloride (*shabu*), to a poseur buyer in consideration of two (2) ₱100.00 bills, which was marked money bearing Serial Number QP541321 and RP780963, while the other members of the police unit strategically located nearby, intently observing the consummation of the transaction, including the giving of marked money by the poseur buyer to the accused on a buy-bust operation, well knowing that it is dangerous drug.

Contrary to and in violation of Section 5, Article II of Republic Act 9165.⁷

After trial, the trial court found Bulotano guilty of violation of Section 5 of Republic Act No. 9165. The dispositive portion of the decision reads:

⁵ Exhibit "C", id. at 107.

⁶ TSN, 19 July 2005, p. 3.

⁷ Records, p. 2.

WHEREFORE, in the light of the foregoing, (sic) consideration, this Court hereby rendered judgment finding the accused Vivian Bulotano y Amante **guilty beyond reasonable doubt** of the crime charged in the information and sentences her to life imprisonment and a fine of ₱500,000.00 and to pay the cost.

Accused Vivian Bulotano who has been detained since her arrest shall be credited in the service of her sentence consisting of deprivation of liberty with the full time during which she has undergone preventive imprisonment if she agrees voluntarily in writing to abide by the same disciplinary rules imposed upon corrected prisoners.

SO ORDERED.⁸

On appeal, the CA affirmed the trial court decision, thus:

WHEREFORE, Premises considered, the **APPEAL** is hereby **DENIED**. The decision dated August 10, 2005 of Branch 25 of the Regional trial Court of Cagayan de Oro City is hereby **AFFIRMED in toto**.

SO ORDERED.

Before Us, Bulotano insists that her conviction is without basis. She anchors her arguments on the following allegations:

- (1) There were no photographs of the alleged seized illegal drugs taken;
- (2) The inventory of the alleged seized illegal drugs was not immediately done after her arrest. The inventory was conducted only after she underwent inquest proceedings at the City Prosecutor's Office, following which the inventory was shown to her and she was forced to sign the same. There were no witnesses in the conduct of the inventory and that the inventory report was solely signed by PO1 Dagaraga;
- (3) The Chemistry Report, prepared by P/S Insp. April Madroño (Forensic Chemical Officer), dated 7 September 2004, was not duly notarized; and
- (4) The trial court failed to appreciate the testimony of Joel Flores.

⁸

Id. at 165-166.

On these arguments, the CA ruled that, “even if it were to be conceded that the above arguments presented by accused-appellant are indeed meritorious, regrettably, the same arguments do not militate nor mitigate accused-appellant’s conviction for violation of Republic Act No. 9165. At most, the above arguments constitute infractions that may subject the parties concerned to administrative charges.”⁹

Further, the CA ratiocinated that the “alleged deviations from the guidelines of Republic Act No. 9165 relate only to minor procedural matters, which by any means, does not operate to tilt the scales of justice in favor of accused-appellant, as the fact of sale of illegal drugs was duly established by the prosecution against her.”¹⁰

With the observations that follow, We affirm the conviction of the defendant for illegal sale of *shabu*.

Necessity of presenting in evidence the *corpus delicti*.

The elements necessary for the prosecution of the illegal sale of drugs are as follows: (a) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and payment therefor.¹¹ The prosecution, to prove guilt beyond reasonable doubt, must present in evidence the *corpus delicti* of the case. The *corpus delicti* is the seized illegal drugs.

The duty of the prosecution is not merely to present in evidence the seized illegal drugs. It is essential that the illegal drugs seized from the suspect is the very same substance offered in evidence in court as the identity of the drug must be established with the same unwavering exactitude as that required to make a finding of guilt.¹²

Section 21 of Republic Act No. 9165 as a legal safeguard that the seized illegal drugs are the same one presented in court.

⁹ CA rollo, p. 59.

¹⁰ Rollo, pp. 6-7.

¹¹ *People v. Lorenzo*, G.R. No. 184760, 23 April 2010, 619 SCRA 389, 400.

¹² *Sales v. People*, 602 Phil. 1047, 1056 (2009).

Because of the unique characteristic of illegal drugs, rendering them indistinct, not readily identifiable, and susceptible to tampering, alteration or substitution either by accident or otherwise, the law laid down rules to preserve the identity and integrity of the seized illegal drugs. Section 21 of Republic Act No. 9165 provides for the procedure that ensures that what was confiscated is the one presented in court. Thus:

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

(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; x x x x

(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; x x x x

Otherwise stated, Section 21 of Republic Act No. 9165 requires that upon seizure of illegal drug items, the apprehending team having initial custody of the drugs shall (a) conduct a physical inventory of the drugs and (b) take photographs thereof (c) in the presence of the person from whom these items were seized or confiscated and (d) a representative from the media and the Department of Justice and any elected public official (e) who shall all be required to sign the inventory and be given copies thereof.

There were no photographs of the alleged seized illegal drugs taken.

Based on the records, in violation to Section 21, paragraph 1 of Republic Act No. 9165, the arresting officers completely failed to take photographs of the seized illegal drugs 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.¹³

The testimony of PO1 Dagaraga affirms the fact:

Q: You also did not photograph the shabu at the scene in the presence of Vivian Bulotano?

A: No, sir.

Q: In the PDEA Office, did you photograph the shabu in the presence of Vivian Bulotano?

A: I cannot recall.

Q: Meaning to say, it is possible that you have perhaps the evidence together with Vivian Bulotano at the PDEA Office already?

A: Yes.¹⁴

There were no witnesses in the conduct of the inventory, except PO1 Dagaraga.

Besides the failure to photograph the seized illegal drugs, the defense claims that the inventory was not done immediately after the arrest. However, the defense failed to adduce evidence to establish such fact. Thus, on this point, the presumption of regularity must prevail.

The defense's arguments, however, do not solely center on the promptness of the conduct of the inventory. The defense maintains that the inventory report is defective on the ground of lack of witnesses.

A simple perusal of the inventory report will reveal that PO1 Dagaraga was the sole signatory in the inventory report.¹⁵ PO1 Dagaraga affirmed such procedural lapse. Thus:

¹³ Records, pp. 104-105.

¹⁴ TSN, 20 February 2005, p. 23.

¹⁵ Exhibit "1", records, p. 17.

Q: Will you agree with me that there are no witnesses who signed in this inventory receipt?

A: No, myself only.¹⁶

The Chemistry Report, prepared by P/S Insp. April Madroño (Forensic Chemical Officer) was not duly notarized.

Again, contrary to the procedural requirement laid down in Section 21, paragraph (3) of Republic Act No. 9165, which requires that the laboratory certification must be under oath, the Chemistry Report was not duly notarized.¹⁷

As defined in the 2004 Rules on Notarial Practice, an ‘affirmation’ or ‘oath’ refers to an act in which an individual on a single occasion:¹⁸

- (a) appears in person before the notary public;
- (b) is personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules; and
- (c) avows under penalty of law to the whole truth of the contents of the instrument or document.

Contrary to the requirements in the law, the Chemistry Report was notarized by a certain Theodore Ipan Baja (Baja), a Police Chief Inspector/QD Examiner/C/OPN OFFR.¹⁹ Baja is not a duly commissioned notary public. Also, there were no allegations that PO1 Dagaraga was personally known to Baja and that PO1 Dagaraga avows under the penalty of law to the whole truth of the contents of the Chemistry Report.

In sum, the procedural requirements of Section 21, Republic Act No. 9165 were not followed. First, no photograph of the seized *shabu* was taken. Second, the arresting officers did not immediately mark the seized *shabu* at the scene of the crime. Third, although there was testimony about the marking of the seized items at the police station, the records do not show that the marking was done in the presence of Bulotano. Fourth, no representative of the media and the Department of Justice, and any elected

¹⁶ TSN, 20 February 2005, p. 24.

¹⁷ Exhibit “D”, records, p. 108.

¹⁸ A.M. No. 02-8-13-SC, 2004 Rules of Notarial Practice.

¹⁹ Exhibit “D”, records, p. 108.

official attended the conduct of the physical inventory and signed the inventory. And finally, the Chemistry Report was not duly notarized.

The “chain of custody” rule.

Without doubt, the arresting officers failed to strictly comply with the requirements provided in Section 21. However, noncompliance with the regulations is not necessarily fatal as to render an accused’s arrest illegal or the items confiscated from him inadmissible as evidence of his guilt, for what is of the utmost importance is the preservation of the integrity and the evidentiary value of the confiscated items that will be utilized in the determination of his guilt or innocence.²⁰ Such that, when there is a failure to follow strictly the said procedure, the crime can still be proven, *i.e.*, that the noncompliance was under justifiable grounds or that the *shabu* taken is the same one presented in court by proof of “chain of custody”.

We refer to the last paragraph of Section 21(a) of the IRR, which provides a saving mechanism to ensure that not every case of noncompliance irreversibly prejudices the State’s evidence, to wit:

(a) The apprehending office/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 and Underscoring supplied)

As thus provided, noncompliance with the enumerated requirements in Section 21 of the law, does not automatically exonerate the accused. Upon proof that noncompliance was due to justifiable grounds, and that the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, the seizure and custody over said items

²⁰ *People v. Pringas*, supra note 1.

are not, by the noncompliance, rendered void. This is the “chain of custody” rule.

In *Mallillin v. People*,²¹ the Court explained that the “chain of custody” requirement ensures that unnecessary doubts concerning the identity of the evidence are removed. The chain of evidence is constructed by proper exhibit handling, storage, labelling and recording, and must exist from the time the evidence is found until the time it is offered in evidence.²² Failure to prove that the specimen submitted for laboratory examination was the same one allegedly seized from accused is fatal to the prosecution’s case. When there are doubts on whether the item confiscated was the same specimen examined and established to be the prohibited drug, there can be no crime of illegal possession or illegal sale of a prohibited drug.²³

In the chain of custody, the marking immediately after seizure is the starting point in the custodial link. Thereafter, the specimen shall undergo different processes and will inevitably be passed on to different persons. Thus, it is vital that there be an unbroken link in the chain to obviate switching, “planting,” or contamination of evidence,²⁴ *a fortiori*, to segregate the marked evidence from the *corpus* of all other similar and related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings.²⁵

In the case at bar, the records establish the links in the chain of custody.

After PO1 Dagaraga seized from Bulotano a transparent plastic sachet containing crystalline substance (specimen) and the marked money of ₱200.00, PO1 Dagaraga then prepared an inventory and request for laboratory examination and brought the specimen, the marked money, and Bulotano, to the PNP Crime Laboratory.

During his cross-examination, PO1 Dagaraga attested that it was the same seized illegal drugs which were presented in court because of the markings “DGD” on the specimen and the marked money. The examination on PO1 Dagaraga as shown in the TSN:²⁶

²¹ 576 Phil. 576 (2008).

²² *Valdez v. People*, 563 Phil. 934, 954 (2007).

²³ *Id.* at 951-952.

²⁴ *People v. Denoman*, G.R. No. 171732, 14 August 2009, 596 SCRA 257, 267.

²⁵ *Id.*

²⁶ TSN, 20 February 2005, pp. 8-9.

Q: What did you do next?
A: Then I brought Vivian to our office at PDEA, and I let her filled [sic] up the booking sheet for her identification.

Q: What else did you do?
A: We prepared a request for laboratory examination for the specimen recovered from Vivian Bulotano.

Q: If that laboratory request as you said prepared by you be shown to you, will you be able to identify it?
A: Yes, sir.

x x x x

Q: I'm showing to you a specimen already marked Exhibit "D", is that the one you bought from the accused?
(Pros. Borja handed to the witness Exhibit "D").
A: Yes, this is the one, the sachet that we bought from Vivian Bulotano worth ₱200.00 peso bills.

Q: Why do you say that this is the one that you bought from Vivian Bulotano?
A: Because of the mark DGD, sir.

x x x x

Q: Why do you say that you were the one who submitted the letter request to the PNP Crime Laboratory?
A: Because it bears my signatory receipt and I indicated my names (sic) sir.

To corroborate PO1 Dagaraga's testimony, SPO1 Samuel Daang Tabligan (SPO1 Tabligan) testified that he was the one who received the request, specimen, and marked money from PO1 Dagaraga:

Q: I am showing to you this request, is this the request that you received from the PDEA?
A: Yes, sir, including the specimen.

Q: Is this the specimen that you are referring to?
A: Yes, sir.²⁷

x x x x

Q: Mr. Witness, when you received the laboratory request and the specimen, where did the requesting party placed the small sachet containing a white crystalline substance?
A: It is placed in a bigger transparent cellophane.

²⁷ TSN, 20 January 2005, pp. 3-4.

Q: Where there markings on the bigger plastic cellophane where the small plastic sachet was placed?

A: There was none.

Q: Now, how was that big cellophane sealed, was it sealed through masking tape or staple wire?

A: It was sealed through staple wire.

Q: When you received it, did you also open it in order to examine the specimen that was placed inside?

A: Yes, Ma'am. I opened the bigger plastic for comparison.

x x x x

Q: By the way, who delivered this laboratory request and this specimen?

A: PO1 Dizon Dagaraga. He was the one who brought the written request together with the specimen.²⁸

To prove that the specimen presented in court was the same specimen he received from PO1 Dagaraga and the same specimen he examined and thereafter, forwarded to the PNP Chemical Laboratory, SPO1 Tabligan positively identified the seized *shabu*:

Q: Now, Mr. Witness, on the smaller sachet which contains a white crystalline substance, what were the markings you found?

A: I found the making "DGD".

x x x x

Q: And did you record in your police logbook, the receipt of this specimen and the laboratory request?

A: Yes, Ma'am.²⁹

In detail, the records of the case indicate that after Bulotano's arrest, she was taken to the police station and turned over to the police investigator. Although there were no photographs taken, PO1 Dagaraga, the poseur-buyer and arresting officer, testified that he personally³⁰ made the markings "DGD" (representing his initials) on the plastic sachet containing crystalline substance. PO1 Dagaraga also testified that he was the one who drafted the inventory.³¹ PO1 Dagaraga, also, drafted the request for chemical laboratory

²⁸ Id. at 4-6.

²⁹ TSN, 20 January 2005, pp. 5- 6.

³⁰ TSN, 20 February 2005, p. 23.

³¹ Id. at 9.

examination.³² After drafting the request, it was still PO1 Dagaraga, who delivered the plastic sachet containing crystalline substance,³³ which had the marking “DGD” to the PNP Chemical Laboratory for examination. The request, together with the sachet containing crystalline substance, was received by SPO1 Tabligan.³⁴ Then, it was transferred to the Forensic Chemical Officer, P/S Insp. Madroño.³⁵ The plastic sachet containing white crystalline substance was later on determined to be positive for Methamphetamine Hydrochloride or *shabu*.³⁶

Despite noncompliance with the requirements in Section 21, there is no showing of a break in the chain in the custody of the seized item, later on determined to be *shabu*, from the moment of its seizure by the entrapment team, to the investigating officer, to the time it was brought to the forensic chemist at the PNP Crime Laboratory for laboratory examination.³⁷ The prosecution’s failure to submit in evidence the required photograph and inventory conducted in the presence of the accused and witnesses of the seized drugs pursuant to Section 21, Article II of Republic Act No. 9165 will not exonerate Bulotano.³⁸ Noncompliance with the requirements is not fatal and will not render an accused’s arrest illegal or the items seized/confiscated from him inadmissible.³⁹ What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.⁴⁰

Finally, We find need to comment on the statement by the appellate court that, “even if it were to be conceded that the above arguments presented by accused-appellant are indeed meritorious, regrettably, the same arguments do not militate nor mitigate accused-appellant’s conviction for violation of Republic Act No. 9165. At most, the above arguments constitute infractions that may subject the parties concerned to administrative charges.”⁴¹

The requirements laid down in Section 21 are not a statement of duties or a job description of the drugs law enforcement officers. It is a statement of procedure for compliance with the imperative that the thing presented as

³² Id.

³³ Id. at 8-9.

³⁴ TSN, 20 January 2005, p. 5

³⁵ Exhibit “E-1”, records, p. 110.

³⁶ Exhibit “C”, id. at 107.

³⁷ *People v. Bara*, G.R. No. 184808, 14 November 2011, 660 SCRA 38, 46 citing *People v. Campomanes*, G.R. No. 187741, 9 August 2010, 627 SCRA 494, 508.

³⁸ *People v. Concepcion*, 578 Phil. 957, 971 (2008).

³⁹ Id.

⁴⁰ *People v. Torres*, G.R. No. 191730, 5 June 2013.

⁴¹ CA rollo, p. 59.

proof of violation of the law is precisely that which was confiscated or taken from the accused, recognizing the unique characteristic of illegal drugs being vulnerable to tampering, altering or substitution.⁴² When it is not followed without any justifiable reason, an acquittal of the accused results.

Thus, while minor deviations from the procedures under Republic Act No. 9165 would not automatically exonerate an accused, when there is gross disregard of the procedural safeguards prescribed in the substantive law, serious uncertainty is generated about the identity of the seized items that the prosecution presented in evidence.⁴³ Which is why the rule of chain of custody was included in the IRR of the law.

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.⁴⁴

The same presumption holds good insofar as the fact of sale is concerned. Bulotano failed to show any motive on the part of the arresting officers to implicate her in a crime she claimed she did not commit. Bulotano's bare denial cannot prevail over the positive identification by PO1 Dagaraga that she is the same person who sold the *shabu* to him, corroborated by SPO1 Tabligan. Parenthetically, the testimony of Joel Flores, merely corroborative of the defense is likewise of no moment.

We uphold the performance in this case of the police officers of their duty. We are not, however, unmindful of the abuses that can possibly be committed by enforcing officers of the law. We take note that arresting officers cannot run around the law unscathed; thus, the more stringent implementation of Sections 27, 29 and 32 of Republic Act No. 9165, which criminalizes misappropriation, misapplication, failure to account confiscated or seized illegal drugs, planting of illegal drugs as evidence, and violation of rules of the PDEA of arresting officers.⁴⁵

Thus said, We go back to what is this case at bottom. All the elements necessary for the prosecution of the illegal sale of drugs has been established beyond reasonable doubt (a) the identity of the buyer: PO1 Dagaraga; and

⁴² *People v. Alcuizar*, G.R. No. 189980, 6 April 2011, 647 SCRA 431, 437.

⁴³ *People v. Ancheta*, G.R. No. 197371, 13 June 2012, 672 SCRA 604, 617, citing *People v. Umipang*, G.R. No. 190321, 25 April 2012, 671 SCRA 324, 355.

⁴⁴ *People v. Torres*, supra note 40, citing *People v. Arriola*, G.R. No. 187736, 8 February 2012, 665 SCRA 581, 591.

⁴⁵ Section 27-29, RA 9165.

the seller: Bulotano; the object: *shabu*; and the consideration: ₱200.00 marked money; and (2) the delivery of the thing sold and payment therefor.⁴⁶

Accordingly, We **AFFIRM** the 23 July 2009 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00254-MIN, which in turn affirmed *in toto* the decision of the Regional Trial Court in Criminal Case No. 2004-727 dated 10 August 2005, finding accused-appellant **VIVIAN BULOTANO y AMANTE** guilty of violating Section 5, Article II of Republic Act No. 9165.

SO ORDERED.



JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

⁴⁶

People v. Lorenzo, supra note 11.

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, 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 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