



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 207664
Plaintiff-Appellee,

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

- versus -

Promulgated:

GIL SALVIDAR y GARLAN,
Accused-Appellant.

JUN 25 2014

X-----X

RESOLUTION

REYES, J.:

For review¹ is the Decision² rendered by the Court of Appeals (CA) on October 31, 2012 in CA-G.R. CR-HC No. 04989 affirming, albeit with modification as to the wordings of one of the penalties imposed, the Decision³ dated April 11, 2011 by the Regional Trial Court (RTC) of Caloocan City, Branch 120 in Criminal Case Nos. C-78532-33, convicting Gil Salvador y Garlan (accused-appellant) for violation of Sections 5⁴ and 11,⁵ Article II of Republic Act (R.A.) No. 9165.⁶

¹ Please see the Notice of Appeal filed with the Court of Appeals by the Public Attorney's Office, rollo, pp. 20-21.

² Penned by Associate Justice Normandie B. Pizarro, with Associate Justices Remedios A. Salazar-Fernando and Manuel M. Barrios, concurring; CA rollo, pp. 115-132.

³ Issued by Presiding Judge Aurelio R. Ralar, Jr.; id. at 18-28.

⁴ 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 ([P]500,000.00) to Ten million pesos ([P]10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

A

Factual Antecedents

The informations filed before the RTC against the accused-appellant partially read as follows:

CRIM CASE NO. 78532
Violation of Section 5, Art. II, RA 9165

“That on or about the 12th day of November 2007 in Caloocan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there, willfully, unlawfully and feloniously sell and deliver to PO3 RAMON GALVEZ, who posed, as buyer, ten (10) heat-sealed transparent plastic sachets each containing dried MARIJUANA fruiting tops weighing 0.37 gram, 0.35 gram, 0.40 gram, 0.28 gram, 0.35 gram, 0.36 gram, 0.32 gram, 0.36 gram, 0.67 gram & 0.57 gram, a dangerous drug, without the corresponding license or prescription therefore, knowing the same to be such.

Contrary to law.”

CRIM CASE NO. 78533
Violation of Section 11, Art. II, RA 9165

“That on or about the 12th day of November 2007, in Caloocan City[,] Metro Manila 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 have in his possession, custody and control one (1) transparent plastic box containing dried MARIJUANA fruiting tops weighing 29.01 grams, when subjected for laboratory

x x x x

⁵ Section 11. *Possession of Dangerous Drugs.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos ([□]500,000.00) to Ten million pesos ([□]10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

(7) 500 grams or more of marijuana; and

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 ([□]300,000.00) to Four hundred thousand pesos ([□]400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu”, or other dangerous drugs such as, but not limited to, MDMA or “ecstasy”, PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

⁶ AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES

examination gave positive result to the tests of Marijuana, a dangerous drug.

Contrary to law.”⁷

During arraignment, the accused-appellant entered a “not guilty” plea. Pre-trial then ensued. Since the two cases were filed against the same accused and revolve around the same facts and evidence, they were consolidated and tried jointly.

Version of the Prosecution

The prosecution offered the following as witnesses: (a) Police Officer 3 Ramon Galvez (PO3 Galvez), the poseur-buyer in the buy-bust operation conducted against the accused-appellant; (b) PO2 Randulfo Hipolito (PO2 Hipolito), likewise a member of the buy-bust operation; (c) Senior Police Officer 1 Fernando Moran (SPO1 Moran), then the investigator-on-duty to whom the accused-appellant and the seized evidence were turned over at the police station; and (d) Police Chief Inspector Albert S. Arturo (PCI Arturo), Forensic Chemical Officer of the Northern Police District Crime Laboratory Office, Caloocan City, who conducted the examination on the evidence seized from the accused-appellant.

PO3 Galvez testified that on November 12, 2007, he was ordered by their chief to conduct a surveillance operation to verify reported illegal drug selling activities in Don Antonio Street, *Barangay* 19, Caloocan City. A confidential informant told the police that a certain “*Keempee*,” who would later on be identified as the herein accused-appellant, was notoriously selling *marijuana* in the area. A buy-bust team was thereafter formed. PO3 Galvez was designated as the poseur-buyer, PO3 Fernando Modina (PO3 Modina) as team leader, and PO2 Hipolito as back-up member. A hundred peso bill, marked with PO3 Galvez’s initials, was prepared. To send a signal to the other members of the buy-bust team of the consummation of the transaction with the accused-appellant, PO3 Galvez was instructed to throw a lit cigarette.⁸

The buy-bust team proceeded to the target area. PO3 Galvez and the informant saw the accused-appellant near the front door of his house, stripping *marijuana* leaves. The rest of the team remained in the perimeter. PO3 Galvez approached the house, uttered “*Keempee, pakuha nga ng damo, halagang isang daan*,” and gave the latter the ₱100.00 marked money. The accused-appellant then held ten (10) pieces of plastic, which appeared to contain *marijuana* and white pieces of paper, placed them inside a Marlboro

⁷ CA rollo, pp. 18-19.

⁸ Id. at 20, 118-119.

pack, and handed them all to PO3 Galvez. When PO3 Galvez threw a lit cigarette, PO2 Hipolito joined him in arresting the accused-appellant, who was apprised of his constitutional rights. After a further search, one transparent plastic box containing what likewise appeared to be dried *marijuana* leaves, one plastic sachet with white pieces of paper, and a few empty transparent plastic sachets were also seized from the accused-appellant.⁹

PO3 Galvez marked the ten (10) plastic sachets with “GSG/RG 11/12/07” representing his and the accused-appellant’s initials and the date the imprint was made. The rest of the items seized were marked with “GSG/RH,” the last two letters representing PO2 Hipolito’s initials. The accused-appellant and the seized items were thereafter taken to the police station and turned over to SPO1 Moran, who prepared the letter request for laboratory examination. The crime laboratory tested the seized items and found the same to be *marijuana*.¹⁰

PO2 Hipolito corroborated PO3 Galvez’s testimony about the conduct of a buy-bust operation and the turnover of the accused-appellant and the seized items to the investigator at the police station. Additionally, PO2 Hipolito stated that he held the accused-appellant while PO3 Galvez was marking some of the seized items. The accused-appellant was turned over to PO3 Modina upon the latter’s arrival, while PO2 Hipolito marked the rest of the seized items.¹¹

The prosecution and the defense entered into stipulations and admissions of facts anent:

- (a) SPO1 Moran’s (1) having caused the buy-bust money to be photographed; (2) receipt, while at the police station, of the person of the accused-appellant and the items allegedly seized from him; (3) preparation of the evidence acknowledgment receipt, affidavit of arrest of the police officers, and referral slip to the inquest prosecutor; (4) preparation of a letter request for laboratory examination of the seized items; and (5) receipt of the result of the laboratory examination, which yielded positive for *marijuana*;¹² and
- (b) PCI Arturo’s (1) receipt of a letter request for laboratory examination of ten (10) heat-sealed transparent plastic sachets containing white pieces of paper and dried *marijuana* fruiting/flowering tops; (2) conduct of a laboratory examination

⁹ Id. at 20-21, 119-120.

¹⁰ Id. at 120.

¹¹ Id. at 21, 120.

¹² Id. at 21-22.

on the aforecited specimens; and (3) preparation of Physical Science Report No. D-382-07 stating therein the result of the laboratory examination.¹³

The testimonies of SPO1 Moran and PCI Arturo were thus dispensed with.

Version of the Defense

The defense, on its part, offered the testimonies of the accused-appellant and his son, Guillar Salvidar (Guillar).

The accused-appellant claimed that contrary to the prosecution's statements, he was instead arrested at around 4:00 p.m. of November 11, 2007. While playing a video game with Guillar, he stood up to get snacks for the latter. Several men arrived, brought him to their vehicle, and handcuffed him. He was subsequently asked to reveal the identities of big time drug pushers in the area. The accused-appellant was unable to comply with the order and was brought to the Sangandaan precinct. The men, who seized the accused-appellant, turned out to be police officers. PO3 Galvez and SPO1 Moran belonged to the group. They inquired from him about his and his wife's employment. The men then asked him to settle the case for ₱30,000.00. He told them that he did not have money. When his wife arrived, she argued with the police officers. The officers got angry and informed him that he would be indicted.¹⁴

Guillar corroborated the accused-appellant's testimony about the date of the arrest and their whereabouts at that time. He added that three policemen arrived. They dragged his father out of the video game shop and the latter, in turn, resisted. Guillar cried while he chased his father who was taken away, but the former's attempt was futile. Guillar went home to inform his mother about the incident.¹⁵

Ruling of the RTC

On April 11, 2011, the RTC rendered a decision,¹⁶ the dispositive portion of which reads:

¹³ Id. at 19-20.

¹⁴ Id. at 22-23, 120-121.

¹⁵ Id. at 23, 121.

¹⁶ Id. at 18-28.

Premises considered, this court finds and so holds the accused **Gil Salvidar y Garlan GUILTY** beyond reasonable doubt for violation of Sections 5 and 11, Article II of [R.A. No. 9165], x x x and imposes upon him the following:

(1) In **Crim. Case No. C-78532**, the penalty of Life Imprisonment and a fine of Five Hundred Thousand Pesos ([□]500,000.00); and

(2) In **Crim. Case No. C-78533**, the penalty of Imprisonment of twelve (12) years and one (1) day to Fourteen (14) years and a fine of Three Hundred Thousand Pesos ([□]300,000.00).

The drugs subject matter of these cases consisting of ten (10) heat-sealed transparent plastic sachets each containing dried MARIJUANA fruiting tops weighing 0.37 gram, 0.35 gram, 0.40 gram, 0.28 gram, 0.35 gram, 0.36 gram, 0.32 gram, 0.36 gram, 0.67 gram & 0.57 gram[,] as well as the one (1) transparent plastic box containing dried MARIJUANA fruiting tops weighing 29.01 grams[,] are hereby confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.¹⁷

The RTC found the accused-appellant's defense of denial and claim of attempted police extortion as bare, hence, unmeritorious. The trial court declared that the testimonies of the members of the buy-bust team deserve full faith and credit, unless it can be shown that they did not properly perform their duties, or that they were inspired by ill motives. The accused-appellant, in this case, did not personally know the policemen and had no previous altercation with any of them, which could have otherwise prompted the filing of fabricated charges against him. Besides, the police officers could not have been oblivious of the fact that Section 29 of R.A. No. 9165 imposes the penalty of death upon persons found guilty of planting dangerous drugs as evidence.¹⁸

Citing *People v. Cueno*¹⁹ and *People v. Rigodon*,²⁰ the RTC emphasized that only two basic elements must be present for the charge of illegal sale of drugs to prosper, namely: (a) the determination of the identities of the buyer and the seller, the object and the consideration; and (b) the delivery of the thing sold and the payment therefor. In the case at bar, PO3 Galvez gave a detailed account of how the sale involving the accused-appellant was consummated and his testimony was corroborated by PO2 Hipolito. The seized items were also positively identified and the unbroken chain of custody over the same was established.²¹

¹⁷ Id. at 27-28.

¹⁸ Id. at 24-26.

¹⁹ 359 Phil. 151 (1998).

²⁰ G.R. No. 111888, November 8, 1994, 238 SCRA 27.

²¹ CA *rollo*, pp. 26-27.

The Parties' Arguments Before the CA and its Ruling

The accused-appellant challenged the above ruling before the CA claiming that the prosecution's version of what transpired was highly incredible. The members of the buy-bust team narrated that the accused-appellant was packing and selling his illegal merchandise in public view. This, however, is improbable and contrary to common experience.²²

The accused-appellant also alleged that the prosecution failed to establish an unbroken chain of custody over the evidence. There was no explicit testimony that the specimens were marked in the presence of the accused-appellant. There was likewise no proof that the items were photographed and inventoried in the presence of a member of the media, a Department of Justice (DOJ) representative, and an elective government official.²³

Further, not all who had custody of the specimens testified on the condition of the same upon receipt and the precautions they took to preserve their integrity. It is perplexing as well why SPO1 Moran delivered the seized items twice to the crime laboratory – at first to a certain PO1 Bolora at 9:40 p.m. of November 12, 2007, and subsequently to PCI Arturo at 9:45 p.m. of the same date. While PO1 Bolora's custody over the seized items merely lasted for a few minutes, still, he should have testified because that short span of time was more than sufficient to destroy the integrity of the evidence.²⁴

Admittedly, there are exceptions to the strict implementation of the rules and procedures mandated by R.A. No. 9165. However, the prosecution should have, at the outset, recognized the procedural lapses and cite justifiable grounds for the omissions, failing at which, a taint of doubt is cast upon the presumption that official duties have been performed with regularity.²⁵

The Office of the Solicitor General (OSG) opposed the appeal arguing that drug pushers have become more daring in selling their wares without regard for place and time.²⁶

²² Id. at 43-44.

²³ Id. at 45.

²⁴ Id. at 47-48.

²⁵ Id. at 51-52.

²⁶ Id. at 79.

The prosecution had likewise proven beyond reasonable doubt that an illegal sale of ten (10) plastic sachets containing *marijuana* was consummated and the accused-appellant was the vendor. The same ten (10) plastic sachets were seized from the accused-appellant, then later on, identified and offered as evidence during the trial. PO3 Galvez and PO2 Hipolito had testified in detail about the conduct of the buy-bust operation, including the markings done on the plastic sachets and transparent box seized from the accused-appellant in the place where he was arrested, and no irregularity can be ascribed as to the concerned police officers' performance of duties.²⁷

On October 31, 2012, the CA rendered the herein assailed decision, the dispositive portion of which states:

WHEREFORE, the appeal is **DENIED**. The *Decision* of the Regional Trial Court of Caloocan City, Br. 120 in 1)Crim. Case No. C-78532 sentencing the Accused-Appellant to suffer life imprisonment and to pay a fine of Five Hundred Thousand Pesos(PhP500,000.00) is **AFFIRMED**; and, 2)Crim. Case No. C-78533 is likewise **AFFIRMED** but with **MODIFICATION** as to the penalty imposed in that the Accused-Appellant is sentenced to suffer an indeterminate penalty of Twelve(12) years and One(1) day, as minimum, to Fourteen(14) years, as maximum. Costs against the Accused-Appellant.

SO ORDERED.²⁸

In affirming the accused-appellant's conviction, the CA cited the following grounds:

Settled is the rule that in the prosecution for illegal sale of drugs, it is material to prove that the transaction or sale actually took place, coupled with the presentation in court of the evidence of *corpus delicti*. Said otherwise, the essential elements of the crime of illegal sale of dangerous drugs are: 1)the accused sold and delivered a prohibited drug to another; and 2)he knew that what he had sold and delivered was a prohibited drug.

In the instant case, PO3 Galvez'[s] testimony proves that the sale of illegal drugs actually took place. x x x [T]he Accused-Appellant was caught in a buy-bust operation freely and knowingly selling and delivering prohibited drugs. x x x.

x x x The prosecution has proven beyond reasonable doubt that the Accused-Appellant committed the crime of illegal possession of dangerous drugs. It was able to prove the following elements: 1)the accused is in possession of an object identified as a prohibited drug; 2)such possession is not authorized by law; and, 3)he freely and consciously possessed the said drug.

²⁷ Id. at 79-103.

²⁸ Id. at 131.

The records manifestly show that, after the buy-bust team arrested the Accused-Appellant, the procedural body search was conducted on his person. The search led to the discovery of one(1) transparent plastic box containing an undetermined amount of suspected dried marijuana leaves(later weighed at 29.01 grams), which he freely possessed knowing the same to be prohibited drugs. After the conduct of laboratory examinations, the same yielded positive for marijuana. Further, he failed to present any document authorizing him by law to possess the same. x x x.

The Accused-Appellant's allegation that the prosecution failed to preserve the integrity and prove the identity of the seized drugs, holds no water.

In all cases involving the handling and custody of dangerous drugs, the police officers are guided by Sec. 21 of the Implementing Rules and Regulations of R.A. No. 9165. The language of the foregoing provision shows that the failure of the police officers to strictly comply with it is not fatal and does not render the evidence adduced against the Accused-Appellant void and inadmissible. What is important 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.***

At bench, there was compliance with the said provision and the integrity of the drugs confiscated from the Accused-Appellant remained intact. The chain of custody of the seized drugs, later on determined to be marijuana, was not shown to have been broken. The records show that, after PO3 Galvez bought ten(10) pieces of plastic sachets suspected of containing marijuana, the Accused-Appellant was bodily searched and found to be in possession of one(1) transparent plastic box containing an undetermined amount of suspected dried marijuana leaves. Immediately thereafter, the confiscated drugs were marked with the initials "GSG/RG 11/12/07" and "GSG/RH" and inventoried at the place of arrest and in the presence of the Accused-Appellant. PO3 Galvez and PO2 Hipolito then brought the Accused-Appellant to the Sangandaan police station where the same were turned over to SPO1 Moran. Thereafter, the latter prepared the Evidence Acknowledgment Receipt and the letter-request for laboratory examination of the seized substances for determination of the presence of any dangerous drugs. PCI Arturo conducted the laboratory test and found them positive for marijuana, a dangerous drug.

What is more, during the trial, PO3 Galvez and PO2 Hipolito were able to positively identify all the plastic sachets containing marijuana with markings "GSG/RG 11/12/07" and "GSG/RH" as the same ones that they confiscated from the Accused-Appellant. x x x.

In comparison to the prosecution's evidence, all that the Accused-Appellant could raise is the defense of denial. x x x The defense of denial in drug cases requires strong and convincing evidence because of the presumption that the law enforcement agencies acted in the regular performance of their official duties. Bare denial of the Accused-Appellant cannot prevail over the positive testimony of the prosecution witness. x x x.

The Accused-Appellant's allegation that the police officers were exacting Thirty Thousand Pesos(PhP30,000.00) from him has no basis. Other than his bare allegations, unsupported by concrete proof, We cannot give such imputation a second look.²⁹ (Citations omitted)

The CA modified the wordings of the penalty imposed by the RTC on the accused-appellant for violation of Section 11 of R.A. No. 9165. The CA emphasized that the Indeterminate Sentence Law should be applied. Consequently, the proper penalty should be "expressed at a range whose maximum term shall not exceed the maximum fixed by the special law, and the minimum term shall not be less than the minimum prescribed."³⁰

Issues

The accused-appellant and the OSG both manifested that they no longer intended to file supplemental briefs.³¹

Hence, the issues before this Court are the same ones raised before and disposed of by the CA. Essentially then, the Court is once again asked to determine whether or not: (a) the testimonies of the members of the buy-bust team about the accused-appellant's illegal selling activities and possession of *marijuana* while the latter was at the front door of his house and within public view are credible; and (b) the prosecution had complied with the procedural requirements mandated by Section 21³² of the

²⁹ Id. at 124-129.

³⁰ Id. at 130-131, citing Section 1 of the Indeterminate Sentence Law, which provides:

Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and 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.

³¹ *Rollo*, pp. 31-32, 26-28.

³² **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:

(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 noncompliance 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[.]

Implementing Rules and Regulations (IRR) of R.A. No. 9165 as regards the chain of custody over the evidence seized from the accused-appellant.

Ruling of the Court

The instant appeal lacks merit.

In cases involving violations of the Dangerous Drugs Law, appellate courts tend to rely heavily on the trial court's assessment of the credibility of witnesses, because the latter had the unique opportunity, denied to the appellate courts, to observe the witnesses and to note their demeanor, conduct, and attitude under direct and cross-examination. Hence, its factual findings are accorded great respect, even finality, absent any showing that certain facts of weight and substance bearing on the elements of the crime have been overlooked, misapprehended, or misapplied.³³

In the instant appeal, the RTC and CA uniformly found that PO3 Galvez's and PO2 Hipolito's testimonies anent the conduct of the buy-bust operation were categorical, detailed, and credible.³⁴ Moreover, the accused-appellant had not ascribed any ill motive against the two police officers which could have otherwise induced them to fabricate the charges.

As the first issue, the accused-appellant claimed that it was highly improbable for him to peddle and possess *marijuana* right in front of his house and within public view. This allegation fails to persuade especially in the light of the court's observation that of late, drug pushers have turned more daring and defiant in the conduct of their illegal activities.³⁵

Anent the second issue, the Court finds the chain of custody over the evidence seized from the accused-appellant as unbroken and that there was sufficient compliance with Section 21 of the IRR of R.A. No. 9165.

PO3 Galvez positively testified that he marked the ten (10) plastic sachets containing *marijuana* and the pieces of white paper while still in the place where the accused-appellant was arrested, and in the presence of the latter.³⁶ PO2 Hipolito did the same relative to the plastic container with *marijuana* likewise found in the accused-appellant's possession.³⁷ When the members of the buy-bust team arrived in the police station, they turned-over the person of the accused-appellant and the items seized from him to SPO1

³³ *People v. De Mesa*, G.R. No. 188570, July 6, 2010, 624 SCRA 248, 255.

³⁴ Please see PO3 Galvez's testimony, as quoted in the Brief for the Appellee, CA *rollo*, pp. 80-90; PO2 Hipolito's testimony, CA *rollo*, pp. 90-102.

³⁵ *Id.* at 79.

³⁶ Please see PO3 Galvez's testimony, as quoted in the Brief for the Appellee, *id.* at 86-88.

³⁷ Please see PO2 Hipolito's testimony, as quoted in the Brief for the Appellee, *id.* at 96-100.

Moran, who in turn, prepared the Evidence Acknowledgment Receipt and letter request for laboratory examination.³⁸ Thereafter, PCI Arturo conducted the laboratory examinations and found the specimens to be *marijuana*.³⁹ These were the same items identified by the prosecution witnesses and presented to the trial court as evidence.

The accused-appellant lamented that the evidence seized were not photographed and inventoried in the presence of a member of the media, a representative from the DOJ, and an elective government official. While this factual allegation is admitted, the Court stresses that what Section 21 of the IRR of R.A. No. 9165 requires is “substantial” and not necessarily “perfect adherence,”⁴⁰ as long as it can be proven that the integrity and the evidentiary value of the seized items are preserved as the same would be utilized in the determination of the guilt or innocence of the accused.⁴¹

The accused-appellant attempted to establish that there was a breach in the chain of custody over the evidence seized from him by pointing out that SPO1 Moran twice delivered the items to the crime laboratory – at first to a certain PO1 Bolora and later, to PCI Arturo.⁴² The Court notes that despite the foregoing allegation, the defense agreed with the prosecution to dispense with the testimonies of SPO1 Moran and PCI Arturo. The parties entered into stipulations and admissions of facts as regards the participation of the aforementioned two. This is no less than an admission on the part of the defense that there was nothing irregular in SPO1 Moran and PCI Arturo’s performance of their duties relative to preserving the integrity of the evidence which fell in their custody. Had the accused-appellant sincerely believed that there was indeed a breach in the chain of custody over the seized items, he would have insisted on putting SPO1 Moran and PCI Arturo on the witness stand for cross-examination.

In sum, the Court finds the herein assailed decision affirming the RTC’s conviction of the accused-appellant for violation of Sections 5 and 11, Article II of R.A. No. 9165 as amply supported by both evidence and jurisprudence. The Court agrees as well with the CA in its modification of the wordings of the penalty imposed on the accused-appellant for violation of the above-mentioned Section 11, as the same is mandated by Section 1 of the Indeterminate Sentence Law.

IN VIEW OF THE FOREGOING, the Decision of the Court of Appeals dated October 31, 2012 in CA-G.R. CR-HC No. 04989 is **AFFIRMED *in toto***.

³⁸ Id. at 89-90, 101; please *also see* pp. 21-22.

³⁹ Id. at 19-20.

⁴⁰ Please *see* *People v. Habana*, G.R. No. 188900, March 5, 2010, 614 SCRA 433, 440.


⁴¹ Please *see* *People v. Pagkalinawan*, G.R. No. 184805, March 3, 2010, 614 SCRA 202, 218.

⁴² CA *rollo*, pp. 47-48.

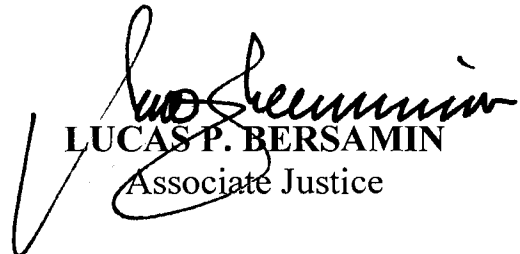
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

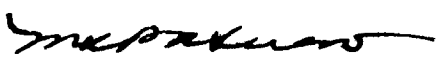

TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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