



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 193768

Present:

CARPIO, J.,*
Acting Chief Justice,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

- versus -

JERRY CARANTO Y PROPETA,
Accused-Appellant.

Promulgated:

MAR 05 2014

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DECISION

PEREZ, J.:

On appeal is the 28 July 2010 Decision¹ of the Court of Appeals (CA) in CA-G.R. C.R.-H.C. No. 01680. The CA affirmed the 7 October 2005 Decision of the Regional Trial Court (RTC), Branch 267, Pasig City, that found Jerry Caranto y Propeta (Jerry) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (R.A.) No. 9165 (The Comprehensive Dangerous Drugs Act of 2002) and imposed upon him the penalty of life imprisonment.

Jerry was charged under the criminal information,² which reads:

* Per Special Order No. 1644 dated 26 February 2014.

1 CA rollo, pp. 104-122; Penned by Associate Justice Aurora C. Lantion with Presiding Justice Andres B. Reyes and Associate Justice Japar B. Dimaampao concurring.

2 Records, pp. 1-2.

That, on or about the 24th day of July 2002, in the Municipality of Taguig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did, then and there willfully, unlawfully and knowingly sell, deliver and give away to another one (1) heat sealed transparent sachet containing 0.39 gram of white crystalline substance, which was found positive to the test of Methylamphetamine (sic) Hydrochloride also known as “*shabu*”, a dangerous drug, in consideration of the amount of PhP 500.00, in violation of [Section 5, Article II, Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002)].

The Facts

The antecedent facts were culled from the records of the case, particularly the Appellee’s Brief³ for the version of the prosecution and the Appellant’s Brief⁴ for the version of the defense.

Version of the Prosecution

On 24 July 2002, PO2 Danilo Arago (PO2 Arago) was inside the office of the Drug Enforcement Unit (DEU) of the Philippine National Police (PNP) in Taguig City when his informant approached him and reported that there was widespread selling of methamphetamine hydrochloride (*shabu*) by a certain Jojo at the latter’s residence at No. 13 Santos Street, *Barangay* Calzada, Tipas, Taguig City.

PO2 Arago immediately reported the information to his superior, P/Supt. Ramon Ramirez (P/Supt. Ramirez), who in turn organized a “buy-bust” operation to apprehend Jerry.

Inside P/Supt. Ramirez’ office, PO2 Arago, along with the informant, PO3 Angelito Galang, SPO3 Arnuldo Vicuna, PO3 Santiago Cordova, PO2 Archie Baltijero and PO1 Alexander Saez, discussed the conduct of the “buy-bust” operation.

The team agreed that the informant would accompany the team to Jerry’s residence where PO2 Arago would act as the *poseur buyer* while the rest of the team would serve as his back up. P/Supt. Ramirez thereafter

3 CA *rollo*, pp. 78-81.

4 Id. at 47-48.

provided the “buy-bust” money of five hundred pesos (₱500.00), which PO2 Arago marked with his initials, “DBA.”

At around 12:00 in the afternoon of the same day, the team proceeded to Jerry’s residence. Upon nearing the area, the informant and PO2 Arago separated from the rest of the team. They walked ahead of their companions and proceeded towards Jerry’s residence while the rest of the team hid in a corner some six to seven meters away from the two.

When they were about 10 to 20 meters when they got near him, from the house, the informant pointed PO2 Arago to Jerry and the informant introduced PO2 Arago to Jerry as a *balikbayan* who was looking for some *shabu*.

Jerry then asked them how much worth of *shabu* they planned to buy, to which informant answered Five Hundred Pesos (₱500.00) worth. PO2 Arago then handed Jerry the marked money.

Upon receiving the money, Jerry went inside his house and after around thirty (30) seconds to one (1) minute, he returned and handed PO2 Arago a plastic sachet, which PO2 Arago suspected to be *shabu*.

After the completion of the transaction, Jerry noticed the informant and PO2 Arago’s companions moving in from behind the two. Jerry immediately tried to flee but was stopped by PO2 Arago.

Seeing the scuffle between PO2 Arago and Jerry, the rest of the “buy-bust” team rushed towards them. After Jerry was subdued, PO2 Arago recovered the marked money inside Jerry’s right pocket. Thereafter, the team introduced themselves as police officers, informed Jerry of his constitutional rights in Filipino and then returned to their station in Taguig City where Jerry was duly investigated.

Version of the Defense

Recalling what transpired on 24 July 2002, Jerry said that he went through his route as a tricycle driver from 6:00 a.m. until he went home around 12:00 in the afternoon to have lunch. He was at the rooftop of their house feeding the dog when policemen arrived looking for his father Cesar Caranto. The policemen kicked the door and forced it open. They held

Jerry and told him that they would have to bring him in unless they get his father. Jerry told the policemen that he was not aware of his father's whereabouts because his father did not live with them anymore. The policemen frisked him and took his wallet. He was brought to the DEU and was thereafter hit by P/Supt. Ramirez on the chest. He denied that he sold any *shabu*.

The mother of Jerry, Teresita Propeta Caranto (Teresita), testified that on that date, she was at the Baclaran church attending mass when her daughter called and told her that her son Jerry was taken from their house and invited by policemen. She hurriedly went to the police station and cried when her son told her that the policemen mauled him. The policemen also asked money from her, but she did not give them anything as her son is innocent. Upon learning that her son's case was non-bailable, she went back to the police station and uttered invectives against the policemen who arrested her son.

More than a month after the incident or on 28 August 2002, Teresita, together with her son Christopher Caranto, her daughter Cynthia Caranto, and a housemaid, were arrested in Baclaran. A drug related case was also filed against them. They were incarcerated for about two years but they were eventually acquitted. Teresita filed a case against the policemen who arrested them and is also planning to file a case against the law officers who arrested her son Jerry.

At the pre-trial, the parties stipulated:⁵ 1) that a request has been made by the arresting officers for examination of the specimens confiscated; 2) that the forensic chemist P/Insp. Lourdeliza Gural (P/Insp. Gural) examined the specimens submitted and thereafter issued her initial and final laboratory report; 3) that P/Insp. Gural has no personal knowledge from whom the alleged specimens were taken and that the test conducted on the alleged specimen yielded positive to metamphetamine hydrochloride. After stipulations were made, the public prosecutor dispensed with the testimony of P/Insp. Gural. Thereafter, trial on the merits ensued.

The RTC Decision

5 Records, p. 47.

On 7 October 2005, the RTC found Jerry guilty of the offense charged and imposed upon him the penalty of life imprisonment. The dispositive portion of the RTC decision is as follows:

WHEREFORE, in view of the foregoing considerations, the prosecution having proven the guilt of the accused beyond reasonable doubt, this Court acting as a Special Drug Court in the above-captioned case hereby finds JERRY CARANTO y PROPETA a.k.a. ‘Jojo’, accused in Criminal Case No. 11539-D, GUILTY as charged and is hereby sentenced to suffer **LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS (PhP 500,000.00).**

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Moreover, the *shabu* contained in one (1) heat sealed transparent plastic sachet containing 0.39 gram of shabu which is the subject matter of the above-captioned case is ordered to be immediately transmitted and/or submitted to the custody of the Philippine Drug Enforcement Agency (PDEA) for its proper disposition.⁶

The CA Decision

The CA, in its assailed decision, affirmed the judgement of conviction by the RTC. The appellate court ruled that Jerry’s guilt was proven beyond reasonable doubt. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the instant appeal is hereby DISMISSED. The assailed Decision of the Regional Trial Court of Pasig City, Branch 267, subject of the appeal is AFFIRMED *in toto*.⁷

In a Resolution⁸ dated 22 November 2010, we required the parties to file their respective supplemental briefs. The prosecution manifested that it was no longer filing any supplemental brief.⁹ The issues raised in appellant’s supplemental brief¹⁰ were similar to those previously raised to the appellate court. The appellant raises the following assignment of errors:

I.

THE TRIAL COURT GRAVELY ERRED IN NOT FINDING THE ACCUSED-APPELLANT’S SEARCH AND ARREST AS ILLEGAL.

6 CA *rollo*, p. 26.
7 *Rollo*, p. 20.
8 Id. at 26.
9 Id. at 32-33.
10 Id. at 45-52.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.¹¹

Ruling of this Court

It should be noted that the significant issues, as discussed below, were initially raised by Jerry in his Memorandum¹² filed with the RTC. Unfortunately, the RTC failed to discuss the issues raised when it rendered its 7 October 2005 decision. On the other hand, the Brief for Jerry filed with the CA was wanting of said pertinent issues. In effect, the CA, likewise, failed to include in its discussion said issues. Upon appeal, the Supplemental Brief for Jerry filed with this Court once again raised and expounded on said issues. Given the foregoing circumstances and in the interest of justice, this Court gives due consideration to the issues raised in Jerry's Supplemental Brief. The Court refuses to turn a blind eye on the importance of the rights of the accused. For this reason, we consider the required procedure for the timely raising of issues, substantially complied with.

Jerry was arrested during a buy-bust operation conducted on 24 July 2002 by the members of the DEU of the Taguig PNP. A buy-bust operation is a form of entrapment employed by peace officers to apprehend prohibited drug law violators in the act of committing a drug-related offense.¹³ We agree with the appellate court when it opined that:

x x x [T]here is no rigid or textbook method of conducting buy-bust operations. The choice of effective ways to apprehend drug dealers is within the ambit of police authority. Police officers have the expertise to determine which specific approaches are necessary to enforce their entrapment operations.¹⁴

The built-in danger for abuse that a buy-bust operation carries cannot be denied. It is essential therefore, that these operations be governed by specific procedures on the seizure and custody of drugs. We had occasion to

11 CA rollo, p. 43.

12 Records, pp. 170-186.

13 *People v. Jocson*, 565 Phil. 303, 309 (2007).

14 *Rollo*, p. 16.

express this concern in *People v. Tan*,¹⁵ when we recognized that “by the very nature of anti-narcotic operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which illegal drugs can be planted in the pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great. Thus, the courts have been exhorted to be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses.”¹⁶

Moreover, we have time and again recognized that a buy-bust operation resulting from the tip of an anonymous confidential informant, although an effective means of eliminating illegal drug related activities, is “susceptible to police abuse.” Worse, it is usually used as a means for extortion.¹⁷ It is for this reason, that the Court must ensure that the enactment of R.A. No. 9165 providing specific procedures to counter these abuses is not put to naught.¹⁸

**Non-compliance with the requirements
of Section 21, par. 1 of Article II of
R.A. No. 9165**

The required procedure on the seizure and custody of drugs is embodied in Section 21, paragraph 1, Article II of R.A. No. 9165, which states:

- 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. (Emphasis supplied)

This is implemented by Section 21(a), Article II of the *Implementing Rules and Regulations* of R.A. No. 9165, which reads:

- (a) The apprehending officer/team having initial custody and control of

15 401 Phil. 259, 273 (2000) citing *People v. Gireng* G.R. No. 97949, 1 February 1995, 241 SCRA 11, 19 and *People v. Pagaura*, G.R. No. 95352, 28 January 1997, 267 SCRA 17, 24.

16 *People v. Sanchez* G.R. No. 175832, 15 October 2008, 569 SCRA 194, 209.

17 *People v. Garcia*, G.R. No. 173480, 25 February 2009, 580 SCRA 259, 266-267.

18 *People v. Secreto*, G.R. No. 198115, 22 February 2013.

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 *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)

This Court recognizes that the strict compliance with the requirements of Section 21 of R.A. No. 9165 may not always be possible under field conditions, many of them far from ideal. For this reason, the Implementing Rules provide that non-compliance with the strict directive of Section 21 is not necessarily fatal to the prosecution's case because courts recognize the possible occurrence of procedural lapses. However, we emphasize that these lapses must be recognized and explained in terms of their justifiable grounds and the integrity and evidentiary value of the evidence seized must be shown to have been preserved.¹⁹ In the present case, the prosecution did not bother to present any explanation to justify the non-observance of the prescribed procedures. Therefore, the non-observance by the police of the required procedure cannot be excused. It likewise failed to prove that the integrity and evidentiary value of the items adduced were not tainted.

Chain of Custody

To secure a conviction for the illegal sale of *shabu*, the following elements must be present: (a) the identities of the buyer and seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing. It is material to establish that the transaction actually took place, and to bring to the court the *corpus delicti* as evidence.²⁰ In the prosecution of a drug case, the primary consideration is to ensure that the identity and integrity of the seized drugs and other related articles have been preserved from the time they were confiscated from the accused until their presentation as evidence in court.²¹

The chain of custody requirement ensures that doubts concerning the identity of the evidence are removed. In a long line of cases, we have

19 *People v. Sanchez*, supra note 16 at 210-211.

20 *People v. Secreto* supra note 18.

21 *Reyes v. CA*, G.R. No. 180177, 18 April 2012, 670 SCRA 148, 159.

considered it fatal for the prosecution when they fail to prove that the specimen submitted for laboratory examination was the same one allegedly seized from the accused. The case of *Malillin v. People*²² is particularly instructive on how we expect the chain of custody to be maintained. As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.²³ An unbroken chain of custody becomes indispensable and essential when the item of real evidence is susceptible to alteration, tampering, contamination and even substitution and exchange.²⁴

The "chain of custody" rule requires that the "marking" of the seized items – to truly ensure that they are the same items that enter the chain and are eventually the ones offered in evidence – should be done (1) in the presence of the apprehended violator (2) immediately upon confiscation. This step initiates the process of protecting innocent persons from dubious and concocted searches.²⁵ "Marking" means the placing by the apprehending officer or the *poseur-buyer* of his/her initials and signature on the item/s seized.

This Court previously held²⁶ that the following links must be established in the chain of custody in a buy-bust operation: 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

22 576 Phil. 576, 587 (2008).

23 *People v. Sanchez*, supra note 16 at 216.

24 Supra

25 Id. at 219 citing Oaminal, C.P., *Textbook on the Comprehensive Dangerous Act of 2002 (Republic Act No. 9165)*, 2005, p. 65. See: *People v. Laxa*, G.R. No. 138501, 20 July 2001, 361 SCRA 622, 635; *People v. Kimura*, G.R. No. 130805, 27 April 2004, 428 SCRA 51; *People v. Nazareno*, G.R. No. 174771, 11 September 2007, 532 SCRA 630; and *People v. Santos, Jr.*, G.R. No. 175593, 17 October 2007, 536 SCRA 489.

26 *People v. Kamad*, G.R. No. 174198, 610 SCRA 295, 307 citing *People v. Garcia*, supra note 16; *People v. Gum-Oyen*, G.R. No. 182231, 16 April 2009, 585 SCRA 668; *People v. Denoman*, G.R. 171732, 14 August 2009, 596 SCRA 257; *People v. Coreche*, G.R. No. 182528, 14 August 2009, 596 SCRA 350.

laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.

A perusal of the records will show that the procedure of preserving the chain of custody as laid down by jurisprudence²⁷ was not observed. This is evident from the testimonies of the witnesses for the prosecution. Prosecution witness PO3 Angelito Galang testified on how the seized item was handled, to wit:

PROSEC. BAUTISTA: At the time you proceeded to the area, what did you observe?

A: I saw the buy-bust money recovered by PO3 Arago and the plastic sachet he bought was placed in his wallet, sir.²⁸

PO3 Santiago Cordova, on the other hand, testified in this wise:

PROSEC. BAUTISTA: So you assisted Arago in arresting this accused?

A: Yes sir.

PROSEC. BAUTISTA: What did Arago did with the stuff, which was taken?

A: He kept it and brought to the office.

PROSEC. BAUTISTA: Before keeping, did Arago do something with the stuff?

A: I saw him holding the specimen and he put the specimen inside his pocket.

PROSEC. BAUTISTA: He did not do anything with the stuff?

A: I did not notice other things he did with the specimen.

PROSEC.BAUTISTA: You did not see what happened afterwards?

A: I did not notice because I am busy holding alias Jojo, because he is resisting.

PROSEC. BAUTISTA: And what did Arago do with the stuff?

²⁷ *Malillin v. People*, supra note 22 at 591.

²⁸ TSN, 6 September 2004, p. 7.

ATTY. HERRERA: Your Honor, the question has been repeatedly asked, your Honor.

PROSEC. BAUTISTA: You saw the stuff?

A: Yes sir.

PROSEC. BAUTISTA: And that's all what you saw?

A: Yes sir.²⁹

It is clear from the aforecited testimonies that the evidence was not “marked” in front of the accused or his representative. Evidently, there was an irregularity in the first link of the chain of custody.

Even assuming that the physical inventory contemplated in R.A. No. 9165 subsumes the marking of the items itself, the belated marking of the seized items at the police station sans the required presence of the accused and the witnesses enumerated under Section 21(a) of the Implementing Rules and Regulations of R.A. No. 9165, and absent a justifiable ground to stand on, cannot be considered a minor deviation from the procedures prescribed by the law. We note that other than the allegation that a marking was done at the police station, there was no proof that such marking was actually undertaken at all. From the time it was placed inside the pocket or wallet of PO2 Arago, it surfaced again only at the marking of exhibits. In fact, there was no statement from any of the witnesses that markings were made on the seized item in the presence of any of the persons mentioned in Section 21 (a) of the Implementing Rules and Regulations of R.A. No. 9165. Moreover, the prosecution even failed to present an accomplished Certificate of Inventory.³⁰

Another gap in the chain of custody is apparent from the lack of evidence presented by the prosecution to prove that the sachet of *shabu*, which was entrusted by PO2 Arago to the investigator, is the same sachet that was delivered to the forensic chemist. The records are wanting of testimonies showing the manner of handling of the evidence, precautions taken and other significant circumstances surrounding this essential transfer of custody. The prosecution did not take the testimony of the investigator, nor did they adduce evidence on what the investigator did with the seized *shabu*, how these got to the forensic chemist, and how they were kept before being adduced in evidence at trial. In fact, the identity of such investigator

29 TSN, 10 March 2004, pp. 8-9.

30 TSN, 25 March 2003, pp. 13-14.

was not even mentioned nor was there any mention of a marking made on the seized item.

Upon further examination, we find that another gap in the chain of custody is apparent. There was no information on what happened to the drugs after P/Insp. Gural examined it. This Court recognizes that the chemist's testimony was stipulated upon.³¹ However, the stipulations did not cover the manner on how the specimens were handled after her examination. Without this testimony, there is no way for this Court to be assured that the substances produced in court are the same specimens the forensic chemist found positive for *shabu*.³² Furthermore, most glaring is the fact that the prosecution even stipulated that the forensic chemist had no knowledge from whom the alleged specimens were taken.³³

Ultimately, when the prosecution evidence is wanting, deficient to the point of doubt that the dangerous drug recovered from the accused is the same drug presented to the forensic chemist for review and examination, or the same drug presented to the court, an essential element in cases of illegal sale and illegal possession of dangerous drugs, the *corpus delicti*, is absent.

Negation of Presumption of Regularity

The lower courts erred in giving weight to the presumption of regularity in the performance that a police officer enjoys in the absence of any taint of irregularity and of ill motive that would induce him to falsify his testimony. The regularity of the performance of the police officers' duties leaves much to be desired in this case given the lapses in their handling of the allegedly confiscated *shabu*. The totality of all the aforementioned procedural lapses effectively produced serious doubts on the integrity and identity of the *corpus delicti*, especially in the face of allegations of frame-up.³⁴ We have previously held³⁵ that these lapses negate the presumption that official duties have been regularly performed by the police officers. Any taint of irregularity affects the whole performance and should make the presumption unavailable.

In *People v. Santos, Jr.*,³⁶ we held that the presumption of regularity in the performance of official duty cannot by itself overcome the presumption

31 Records, p. 47.

32 *People v. Nicart*, G.R. No. 182059, 4 July 2012, 675 SCRA 688, 705.

33 Records, p. 47.

34 *People v. Secreto*, supra note 18.

35 *Mallillin v. People*, supra note 22 at 593.

36 G.R. No. 175593, 17 October 2007, 536 SCRA 489, 503.

of innocence nor constitute proof beyond reasonable doubt.³⁷ It should be noted that the presumption is precisely just that – a presumption. Once challenged by evidence, as in this case, it cannot be regarded as binding truth.³⁸

We recognize that the evidence proffered by the defense is far from strong; the appellant merely denied the occurrence of a buy-bust operation and failed to present impartial witnesses who were not interested in the case. In our jurisdiction, the defense of denial or frame-up, like alibi, has been viewed with disfavor for it can easily be concocted and is a common defense ploy in most prosecutions for violation of the Dangerous Drugs Act.³⁹ It should be emphasized, however, that these weaknesses do not add any strength to the prosecution's cause. Thus, however weak the defense evidence might be, the prosecution's whole case still falls. As the well-entrenched dictum goes, the evidence for the prosecution must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense.⁴⁰

We therefore resolve to acquit the accused for failure of the prosecution – due to the gap-induced weakness of the case – to prove the appellant's guilt beyond reasonable doubt.

WHEREFORE, in light of all the foregoing, the 28 July 2010 Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 01680 affirming the judgement of conviction of the Regional Trial Court, Branch 267, Pasig City is hereby **REVERSED** and **SET ASIDE**. Appellant Jerry Caranto y Propeta is **ACQUITTED** on reasonable doubt and is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

The Director of the Bureau of Corrections is **DIRECTED** to **IMPLEMENT** this Decision and to report to this Court the action taken hereon within five (5) days from receipt.

37 See also *People v. Ambrosio*, 471 Phil. 241, 250 (2004); *People v. Chua*, 444 Phil. 757, 776 (2003); *People v. Tan*, supra note 15.

38 *People vs. Sanchez*, supra note 16 at 221 citing *People v. Cañete*, G.R. No. 138400, 11 July 2002, 384 SCRA 411.


39 Id. at 221-222 citing *Suson v. People*, G.R. No. 152848, 12 July 2006, 494 SCRA 691.

40 Id. at 222.


SO ORDERED.



JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Acting Chief Justice
Chairperson


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Acting Chief Justice