



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 189812

Present:

- versus -

CARPIO, *Acting Chief Justice*,*
DEL CASTILLO,
VILLARAMA, JR.,**
REYES,*** *and*
LEONEN, JJ.

REYNALDO BATURI,
Accused-Appellant.

Promulgated:
SEP 01 2014

X ----- X

DECISION

DEL CASTILLO, J.:

This is an appeal from the July 7, 2009 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02929 that affirmed *in toto* the May 30, 2007 Decision² of the Regional Trial Court (RTC) of Rosales, Pangasinan, Branch 53, in Criminal Case No. 4938-R, finding appellant Reynaldo Baturi (appellant) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (RA) No. 9165³ and imposing upon him the penalty of life imprisonment and a fine of ₱500,000.00. *Mdu*

* Per Special Order No. 1770 dated August 28, 2014

** Per Special Order No. 1767 dated August 27, 2014

*** Per Special Order No. 1776 dated August 28, 2014.

¹ CA *rollo*, pp. 107-121; penned by Associate Justice Rosmari D. Carandang and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Priscilla J. Baltazar-Padilla.

² Records; pp. 109-119; penned by Judge Teodorico Alfonso P. Bauzon.

³ Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Factual Antecedents

The Information⁴ contained the following accusatory allegations against appellant:

That on or about the 7th day of August, 2005, in the morning, in Brgy. Carmen East, Municipality of Rosales, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and without being authorized by law to possess and [sell], did then and there, willfully, unlawfully, and feloniously [sell] ten (10) sachet[s] of heat[-]sealed transparent plastic bags containing white crystalline substance known as “shabu” with a total weight of 49.1 grams, a dangerous drug.

Contrary to Article II, Section 5, Republic Act 9165.⁵

During arraignment, appellant entered a plea of “not guilty.” After the pre-trial conference, trial ensued.

Version of the Prosecution

From the testimonies⁶ of PO3 Marlo Velasquez (PO3 Velasquez) and Forensic Chemist P/Insp. Emelda Besarra-Roderos (P/Insp. Roderos), the following facts emerged:

On August 6, 2005, a confidential informant reported to the Philippine Drug Enforcement Agency (PDEA) office in Dagupan City the illegal drug activities of appellant, a.k.a. Naldong, in Brgy. Carmen East, Rosales, Pangasinan. PO3 Velasquez received and relayed the information to SP02 Pedro Rabago (SPO2 Rabago), the Special Enforcement Team Leader of the PDEA, who, in turn, ordered the former to conduct a surveillance to verify the information.

Together with SPO1 Flash Ferrer (SPO1 Ferrer) and the confidential informant, PO3 Velasquez proceeded to Brgy. Carmen East to conduct the surveillance. Upon reaching the area, the confidential informant introduced PO3 Velasquez to appellant as a buyer of *shabu*. The two closed a deal regarding the sale of 10 “bultos” of *shabu* for the discounted price of ₱90,000.00 that would transpire the next day in appellant’s house.

⁴ Records, p. 22.

⁵ Id.

⁶ TSN, January 30, 2006, pp. 4-18; TSN, February 15, 2006, pp. 2, 5 and 6.

SPO2 Rabago thus immediately formed a team to conduct an entrapment operation where PO3 Velasquez was to act as poseur-buyer and SPO1 Ferrer as back-up. The buy-bust team then placed on top of a bundle of boodle money a 500-peso bill marked with the initials of PO3 Velasquez and SPO1 Ferrer which were MMV and FF, respectively. It was further agreed that SPO1 Ferrer would give PO3 Velasquez a call in his cellular phone as a pre-arranged signal that the sale of *shabu* is already consummated.

The next day, August 7, 2005, the buy-bust team coordinated with the police authorities stationed in the Municipality of Rosales and held a final briefing before proceeding to appellant's abode. Upon arrival thereat, PO3 Velasquez and the confidential informant approached appellant who was sitting in front of his house while SPO1 Ferrer positioned himself about 15 meters away from them. When PO3 Velasquez informed appellant that he already had the payment, appellant took out a carton, opened it and showed the contents thereof to PO3 Velasquez, who, in turn, gave the boodle money.

PO3 Velasquez examined the contents of the carton and upon seeing that it contained plastic sachets with white crystalline granules, he made the pre-arranged signal. SPO1 Ferrer immediately showed up and recovered the buy-bust money from appellant, while PO3 Velasquez seized the carton containing the sachets of white crystalline granules. After informing appellant of his rights, the police officers arrested and took him to the PDEA office for further investigation.

A Certificate of Inventory was then prepared by the police authorities which was signed by two *barangay* officials and a media representative. Appellant was requested to sign the certificate of inventory which he refused. This whole process was photographed. Thereafter, on the basis of a formal request,⁷ the seized *shabu* was referred and delivered to the Philippine National Police (PNP) Provincial Crime Laboratory on August 8, 2005. P/Insp. Roderos issued Chemistry Report No. D-121-2005-U⁸ stating that the white crystalline substance was positive for *shabu*.

Version of the Defense

Appellant denied selling *shabu* and claimed that he was a victim of frame-up by the PDEA. He recalled that on August 7, 2005, he was standing at the street

⁷ Records, p. 9.

⁸ Id. at 10.

corner near his house waiting for the funeral procession of his deceased nephew, Ricky Baturi, to pass. Police operatives arrived shortly and asked if he is Naldong. After he answered in the affirmative, he was asked as to the whereabouts of a former co-worker, Kamlon Montilla (Montilla). Appellant replied that he had no knowledge of the present location of Montilla. Dissatisfied with his answer, the police apprehended and took him inside their van. This was witnessed by his children. He was brought to Villasis where he was repeatedly asked at gunpoint about the whereabouts of Montilla to which he consistently replied that he did not know. He was thereafter detained. Appellant claimed that it was only during his arraignment that he discovered that he was being charged with illegal sale of *shabu*.⁹

Appellant's daughters Maribel Baturi and Rizalyn Raquedan corroborated his testimony.¹⁰

Ruling of the Regional Trial Court

Giving credence to PO3 Velasquez' testimony, the RTC convicted appellant of the crime charged and disposed of the case in its May 30, 2007 Decision¹¹ as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused REYNALDO BATURI GUILTY beyond reasonable doubt of the crime of Illegal Sale of Methamphetamine Hydrochloride or "shabu" in violation of Section 5 of Republic Act No. 9165.

Considering that the penalty of death was abolished, this Court hereby sentence[s] the accused to suffer the penalty of life imprisonment and a fine of ₱500,000.00.

The sachets of shabu are hereby confiscated in favor of the government. Let the same be turned over to the Philippine Drug Enforcement Agency for destruction in accordance with law.

SO ORDERED.¹²

Appellant filed a notice of appeal,¹³ which was approved by the RTC. Hence, the entire records of the case were forwarded to the CA.¹⁴

⁹ TSN, August 9, 2006, pp. 2-19.

¹⁰ TSN, October 2, 2006, pp. 3-7; TSN, January 8, 2007, pp. 3-10.

¹¹ Records, pp. 109-119.

¹² Id. at 119.

¹³ Id. at 120.

¹⁴ Id. at 121.

Ruling of the Court of Appeals

In his Brief,¹⁵ appellant pointed out that the buy-bust team failed to comply with the procedure governing the handling, custody and disposition of the illegal drugs. Because of this, there was failure on the part of the prosecution to establish the *corpus delicti*. Hence, the RTC erred in finding him guilty of the crime charged.

Negating appellant's claims, appellee, through the Office of the Solicitor General (OSG), averred that the confiscated drug was properly inventoried and this was even witnessed by two *barangay kagawads*, a representative of the media and appellant himself. A Certificate of Inventory was then prepared which was signed by the said two *barangay kagawads* and the media representative. Then, a request letter for laboratory examination was signed by SPO4 Rabago. Contained in the said letter was the fact that PO3 Velasquez delivered the seized drug to the Crime Laboratory and that P/Insp. Roderos received the same. To the OSG, these circumstances clearly showed that the prosecution was able to prove the unbroken chain of custody of the confiscated drug. Moreover, there was no reason for the police to falsely testify against appellant. In view of these, the presumption that the police authorities regularly performed their duties must be upheld.¹⁶

Finding that the seizure, handling, custody and examination of the seized drug were properly documented and undertaken in an uninterrupted manner, and the consummation of illegal sale of *shabu* duly established by the prosecution, the CA, in its July 7, 2009 Decision,¹⁷ ruled as follows:

WHEREFORE, premises considered, the instant appeal is **DENIED**, and accordingly, the herein assailed May 30, 2007 Decision of the trial court is hereby **AFFIRMED IN TOTO**.

SO ORDERED.¹⁸

Hence, this appeal.

¹⁵ CA *rollo*, pp. 49-64.

¹⁶ See Appellee's Brief, *id.* at 89-100.

¹⁷ *Id.* at 107-121.

¹⁸ *Id.* at 120; Emphases in the original.

Assignment of Error

Appellant imputes error upon the RTC¹⁹ and the CA²⁰ in finding him guilty of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt.

Our Ruling

The appeal is unmeritorious.

Elements for the Prosecution of Illegal Sale of Shabu

In a successful prosecution for illegal sale of *shabu*, the following elements must concur: "(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*"²¹ or the illicit drug in evidence.

In this case, the prosecution successfully established all the essential elements of the illegal sale of *shabu*. PO3 Velasquez, who acted as poseur-buyer, positively identified appellant as the seller of the *shabu* and categorically testified that the *shabu* was received by him, and the payment therefor by appellant, in a legitimate buy-bust operation. He narrated, *viz*:

A - That on or about 11:00 o'clock the morning of August 6, 2005 a certain confidential informant reported to our office about the illegal activity of one @ "Naldong" of Carmen East, Rosales, Pangasinan, sir.

Q - Did he give you the real name of that alyas Naldong?

A - No, sir, only a.k.a. Naldong.

Q - To whom did this confidential asset report?

A - To me, sir.

Q - And what action did you take when that information was relayed to you?

A - I relayed the information to our Special Enforcement Team Leader, sir.

¹⁹ See Brief for the Accused-Appellant, *id.* at 51.

²⁰ See Supplemental Brief for the Accused-Appellant, *rollo*, p. 35.

²¹ *People v. Dilao*, 555 Phil. 394, 409 (2007).

Q - Who is your team leader then?

A - SPO2 Pedro S. Rabago, sir.

Q - And what measures did Police Officer Rabago take, if any, upon receiving that information relayed by you?

A - They tasked us to conduct surveillance, sir.

Q - Did you conduct that surveillance as ordered by your superior officer?

A - Yes, sir.

Q - How did you conduct that surveillance?

A - We went to the place and as part of our surveillance, [I] and the CI went directly to the place of a.k.a. Naldong, sir.

Q - Where?

A - In Brgy. Carmen East, Rosales, Pangasinan, sir.

COURT:

Q - What is that CI?

A - Confidential informant, your Honor.

PROSECUTOR MATRO: (CONTG)

Q - Aside from your confidential informant, did you have any companion at that time?

A - Yes, sir.

Q - Who?

A - SPO1 Flash Ferrer, sir.

Q - Did you reach that place of alyas Naldong?

A - Yes, sir.

Q - What transpired, if any, when you reached that place?

A - The confidential informant introduced me as a buyer, sir.

Q - To whom?

A - To a.k.a. Naldong, sir.

Q - How did you know that the CI introduced you to Naldong?

A - The CI said "this is the buyer of shabu" then Naldong said, "I will give a discount if you will buy a large amount of shabu", sir.

Q - When alyas Naldong told you that, what was your reply?

A - I told Naldong that I am going to buy 10 bultos of shabu, sir.

Q - When you said bultos, what does that mean?

A - It was placed in a shabu [sic] weighing more or less 4.5 grams or 5 grams, sir.

Q - And what else did you talk about?

A - When I told x x x Naldong that x x x I am going to buy 10 bultos, I asked him how much is the cost of that and he told me ₱9,500 per bulto but since I ordered large amount of shabu, he said he will give it for ₱9,000 or ₱90,000 for ten (10) bultos, sir.

- Q - So do we understand that the cost of one (1) bulto is ₱9,500 but if you order large quantity you will be given a discount of ₱500 per bulto?
- A - Yes, sir.
- Q - So the 10 bultos you ordered is worth ₱90,000?
- A - Yes, sir.
- Q - And was that your final agreement?
- A - The CI and I closed the deal and we [had] an agreement that we will come back the following day to give the money and pick up the shabu, sir.
- Q - And what happened after that?
- A - We returned to our office, sir.
- Q - When you reached your office, what happened there?
- A - We relayed our agreement to our Team Leader, sir.
- Q - What did you relay to your Team Leader?
- A - We relayed the agreement that the amount of shabu is ₱90,000 and that we will be returning x x x the following day at 11:00 A.M. for the payment and to pick up the shabu, sir.
- Q - And after you relayed that to your Team Leader, what action did he take?
- A - He formed a team to conduct buy[-]bust operation and I was designated as the poseur[-]buyer and SPO1 Flash Ferrer [as] the immediate back[-]up and then they gave us the buy-bust money and we prepared the boodle money and we agreed that the pre-arranged signal is by ringing the cellphone, sir.
- Q - So the following day that is August 7, 2005, what happened then?
- A - At around 10:30 A. M. of August 7, 2005 we coordinated [with] the PNP Rosales and after the briefing we immediately proceeded to the place of operation, sir.
- Q - Before coming to Rosales, what happened [in] your office, if any?
- A - We marked the money, sir.
- Q - What money did you mark?
- A - The ₱500 bill, sir.
- Q - How many ₱500 bill[s] did you mark x x x?
- A - One (1) piece of ₱500 bill, sir.
- Q - Who made the markings, Mr. Witness?
- A - [I] and SPO1 Flash Ferrer, sir.
- Q - I have here x x x one (1) piece of ₱500, xerox copy, do you know where [the original is]?
- A - We submitted [it] to the Court, sir.

PROSECUTOR MATRO:

May we ask that the original of the ₱500 bill be brought out.

Q - You mentioned about the boodle money, what do you mean? We know what is boodle money but for record purposes?

A - Paper cut[-]outs, sir.

Q - So this ₱500 plus boodle money was supposed to be the ₱90,000 to be used in buying the 10 bultos of shabu, is that what you mean?

A - Yes, sir.

Q - After you have coordinated with the Police Station of Rosales, Pangasinan, what happened next?

A - We [had] the final briefing and after that we immediately proceeded to the place, sir.

Q - I am showing to you this ₱500 which was previously submitted to the Clerk of Court of this Honorable Court, will you please examine if this is the same ₱500 bill that you are referring to?

A - Yes, sir, this is the same money that we used in buying shabu.

Q - Where is the marking?

A - At the right upper corner below the number 500, this is my initial MMV, sir.

Q - What about the markings made by SPO1 Flash Ferrer?

A - This FF at the right lower corner of the money, sir.

PROSECUTOR MATRO:

May we ask the good counsel for the defense to make [a] comparison between the original and the xerox attached to the record.

ATTY. NGIPOL:

We confirm that the xerox copy attached to the record is a religious reproduction of the original, your Honor.

PROSECUTOR MATRO:

Q - So after the final briefing made at the Rosales Police Station, what happened next, Mr. Witness?

A - We proceeded to the place of operation, sir.

Q - Where you able to reach that place?

A - Yes, sir.

Q - And where was this alyas Naldong when you reached the place?

A - He was in front of the house sitting, sir.

Q - Did he have any companion at that time?

A - None, sir?

Q - And what transpired next?

A - We proceeded directly to where a.k.a. Naldong was, sir.

Q - You said “we”, who was your companion?

A - The CI, sir.

Q - How about Police Officer Flash Ferrer, where was he at that time?

A - He was at a distance as my immediate back[-]up, sir.

COURT:

Q - How far?

A - About 10 to 15 meters, sir.

PROSECUTOR MATRO:

Q - Prior to that, do you have agreement about your signal?

A - Ringing of cellphone, sir.

Q - Who will ring?

A - [I], sir.

Q - And what happened when you approached alyas Naldong?

A - I told him that I already have the ₱90,000 then a.k.a. Naldong took a carton of medicine below and took the shabu and showed it to me, he gave it to me, the medicine box and I handed to him the money, sir.

Q - After alyas Naldong handed to you that box of medicine where the shabu was placed inside, what did you do?

A - I examined if it is really shabu and when I found that it is x x x shabu, I gave to him the buy[-]bust money and immediately I gave the [pre-arranged] signal which is the ringing of the cellphone then I introduced myself as PDEA agent, sir.

Q - After that, what happened next?

A - When I arrested him, SPO1 Flash Ferrer arrived and we conducted a body search if there is a bladed weapon, sir.

Q - Who recovered the buy[-]bust money from his possession?

A - It was SPO1 Flash Ferrer, sir.

Q - Did you see him recover that money?

A - Yes, sir.

PROSECUTOR MATRO: (CONTG.)

Q - How about the bulto of shabu, who was in possession?

A - It [was] in my possession, sir.

Q - After you x x x apprehended him, what transpired next?

A - After telling him his constitutional right[s], we brought him to our office, sir.²²

During the continuation of his direct examination, PO3 Velasquez identified appellant as the perpetrator of the crime, viz.:

²² TSN, January 30, 2006, pp. 5-18.

- Q - In the last hearing, you were asked to identify the person of the accused but the accused was not here. Will you please look around inside the courtroom and see if the accused Reynaldo Baturi is inside this court?
- A - He is here, sir.
- Q - Will you please stand and point to the accused?
- A - The one wearing a white polo shirt. (Witness pointing to a person who[,] when asked his name[,] answered Reynaldo Baturi).²³

In addition, the white crystalline granules sold by appellant, when examined by Forensic Chemist P/Insp. Roderos, were found positive for methamphetamine hydrochloride or *shabu*. This finding is contained in Chemistry Report Number D-121-2005-U²⁴ and was testified to by P/Insp. Roderos.²⁵

Clearly, the prosecution, through the testimonies of PO3 Velasquez and P/Insp. Roderos, was able to successfully establish the elements of illegal sale of *shabu*.

The Court acknowledges that “[p]rosecutions for illegal drugs depend largely on the credibility of the police officers who conducted the buy-bust operation.”²⁶ In this case, the credibility of the prosecution witnesses cannot be doubted. Aside from the fact that both lower courts are one in finding that the testimonies of the prosecution witnesses were direct and definite, the said testimonies are also consistent with each other and with the physical evidence. Besides, “the trial court’s determination on the issue of credibility of witnesses and its consequent findings of facts must be given great weight and respect on appeal x x x. This is so because of the judicial experience that trial courts are in a better position to decide the question of credibility, having heard the witnesses themselves and observed their deportment and manner of testifying during trial.”²⁷

***The Defenses of Denial and Frame-Up
are Unavailing.***

In view of the positive declarations of the prosecution witnesses, appellant’s defense of denial becomes unavailing. “It has been consistently held that mere denial cannot prevail over the positive testimony of a prosecution

²³ TSN, February 27, 2006, pp. 2-3.

²⁴ Records, p. 10.

²⁵ TSN, February 15, 2006, pp. 2-7.

²⁶ *People v. Hajili*, 447 Phil. 283, 295-296 (2003).

²⁷ *People v. Alberto*, G.R. No. 179717, February 5, 2010, 611 SCRA 706, 715.

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’s defense of frame-up likewise fails. “[F]rame-up 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 Appellant’s claim that he was framed by the police officers for refusing to reveal the whereabouts of a drug pusher by the name of Montilla is not worthy of belief. For the police officers to frame him, they must have known appellant prior to the incident.³⁰ Here, the police officers do not personally know appellant prior to the incident. In fact, appellant himself testified that when the police operatives approached him, they still asked him if he is Naldong. Neither did the appellant claim that he knows the police officers who apprehended him. Also, if appellant was indeed a victim of frame-up by police officers, he should have filed the proper charges against them. “The fact that no administrative or criminal charges were filed lends cogency to the conclusion that the alleged frame-up was merely concocted as a defense scheme. This inaction clearly betrays appellant’s claim of frame-up.”³¹

Moreover, there is no allegation or evidence whatsoever that the members of the entrapment team were actuated by improper motive or were not performing their duty in accordance with law. They are therefore entitled to the legal presumption of regularity in the performance of official functions and their testimonies are accorded full faith and credence.³²

Failure to strictly comply with the Chain of Custody Rule is not Fatal.

The Court is not persuaded by appellant’s averment that the prosecution failed to establish that the *shabu* allegedly seized from him was the same *shabu* submitted for laboratory examination. The following negates appellant’s claim: (1) the police officers inventoried the confiscated *shabu* immediately after its seizure from appellant. The process was witnessed by *barangay* officials and a media representative who affixed their signatures in the Certificate of Inventory;³³ (2) the

²⁸ Id. at 714.

²⁹ Id.

³⁰ *People v. Bandang*, G.R. No. 151314, June 3, 2004, 430 SCRA 570, 589.

³¹ *People v. Gonzaga*, G.R. No. 184952, October 11, 2010, 632 SCRA 551, 569.

³² *People v. Saludes*, 451 Phil. 719, 727 (2003).

³³ Records, p. 7.

inventory-taking was photographed and the photographs show that the actual conduct of inventory was witnessed by appellant himself;³⁴ (3) it is undisputed that appellant was asked to affix his signature in the Certificate of Inventory but he refused;³⁵ (4) it was shown that a PDEA personnel thereafter prepared a formal request and the white crystalline granules contained in the plastic sachets seized from appellant were indorsed and delivered promptly by PO3 Velasquez to P/Insp. Roderos to the crime laboratory.³⁶

It is true that the prosecution did not formally offer in evidence the Certificate of Inventory and the formal request for examination of the confiscated substance. Be that as it may, the Court has previously held that even if an exhibit is not formally offered, the same “may still be admitted against the adverse party if, first, it has been duly identified by testimony duly recorded and, second, it has itself been incorporated in the records of the case.”³⁷ PO3 Velasquez categorically testified that an inventory of the seized drugs was performed, a corresponding certificate was prepared, and a formal request for examination was made. He further narrated that together with the formal request, he submitted and delivered the confiscated drugs to the crime laboratory. On the basis of the said formal request, P/Insp. Roderos examined the specimen and she likewise testified on this. Appellant’s counsel even asked the said prosecution witnesses regarding these documents.³⁸ Considering the said testimonies and the fact that the documents were incorporated in the records of the case, they are therefore admissible against appellant.

Besides, the failure of the police officers to comply strictly with the chain of custody rule is not fatal. It will not render the arrest of appellant illegal or the items seized or 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

In this case, the Court finds no hiatus or confusion in the confiscation, handling, custody and examination of the *shabu*. The illegal drug that was inventoried at the PDEA office, subjected to qualitative examination at the crime

³⁴ Id. at 14-16.

³⁵ TSN, February 27, 2006, p. 16.

³⁶ Records, p. 9.

³⁷ *Tabuena v. Court of Appeals*, 274 Phil. 51, 56 (1991).

³⁸ See *People v. Libnao*, 443 Phil. 506, 519 (2003).

³⁹ *People v. Abedin*, G.R. No. 179936, April 11, 2012, 669 SCRA 322, 337.

⁴⁰ Id.

laboratory, and finally introduced in evidence against appellant was the same illegal drug that was confiscated from him when he was caught in *flagrante delicto* selling the same. No apparent irregularity is sufficiently shown to have attended the chain of custody of the *shabu*. Its identity, integrity and probative value were preserved and kept intact by the police officers.

Penalty

All told, there is no reason to disturb the findings 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 9346,⁴¹ only life imprisonment and fine shall be imposed⁴² upon appellant, without eligibility for parole pursuant to Section 2 of the Indeterminate Sentence Law.

WHEREFORE, the Decision dated July 7, 2009 of the Court of Appeals in CA-G.R. CR-HC No. 02929 which affirmed the Decision dated May 30, 2007 of the Regional Trial Court of Rosales, Pangasinan, Branch 53, in Criminal Case No. 4938-R, convicting appellant Reynaldo Baturi for violation of Section 5, Article II of Republic Act No. 9165, as amended by Republic Act No. 9346, and sentencing him to suffer the penalty of life imprisonment and a fine of ₱500,000.00, is **AFFIRMED with the MODIFICATION** that he shall not be eligible for parole.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

⁴¹ AN ACT PROHIBITING THE IMPOSITION OF THE DEATH PENALTY IN THE PHILIPPINES.

⁴² *People v. Abedin*, supra note 39 at 339.

WE CONCUR:



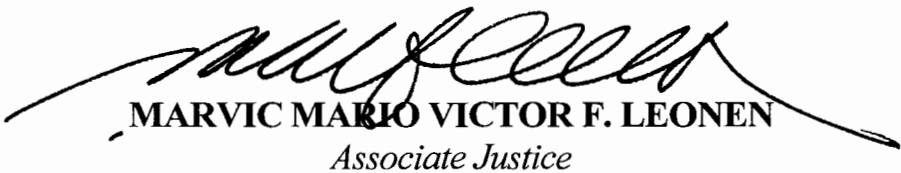
ANTONIO T. CARPIO
Associate Justice
Chairperson



MARTIN S. VILLARAMA, JR.
Associate Justice



BIENVENIDO L. REYES
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
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

