

FIRST DIVISION

[G.R. NO. 175928, August 31, 2007]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALVIN PRINGAS Y PANGANIBAN ACCUSED-APPELLANT.

D E C I S I O N

CHICO-NAZARIO, J.:

On appeal before Us is the Decision^[1] of the Court of Appeals in CA-G.R. CR-HC No. 00303 dated 31 August 2006 which affirmed *in toto* the decision^[2] dated 16 August 2004 of the Regional Trial Court (RTC) of Pasig City, Branch 154, convicting accused-appellant Alvin Panganiban Pringas of Violation of Sections 5,^[3] 11^[4] and 12^[5] of Republic Act No. 9165, otherwise known as Comprehensive Dangerous Drugs Act of 2002.

On 25 April 2003, appellant was charged before the RTC of Pasig City with Violation of Sections 5, 11 and 12 of Republic Act No. 9165 under the following informations:

Criminal Case No. 12360-D

On or about April 22, 2003, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to sell, possess or otherwise use any dangerous drug, did then and there willfully, unlawfully and feloniously sell, deliver and give away to Police Officer Joselito Esmallaner, a police poseur buyer, one (1) small heat-sealed transparent plastic bag containing white crystalline substance weighing three (3) centigrams (0.03 grams), which was found positive to the test for methamphetamine hydrochloride (shabu), a dangerous drug, in violation of the said law.^[6]

Criminal Case No. 12361-D

On or about April 22, 2003, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control three (3) small heat-sealed transparent plastic bags containing white crystalline substance weighing, the following to wit:

- (a) twenty-five (25) decigrams (0.25 grams);
- (b) two (2) centigrams (0.02 grams); and
- (c) two (2) centigrams (0.02 grams).

for a total of twenty-nine (29) decigrams (0.29 grams), which were found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.^[7]

Criminal Case No. 12362-D

On or about April 22, 2003, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess drug paraphernalia, did then and there willfully, unlawfully and feloniously have in is possession, custody and control, the following to wit:

- (a) one (1) small tape-sealed transparent plastic bag containing four (4) smaller unsealed transparent plastic bags each with traces of white crystalline substance;
- (b) one (1) improvised water pipes containing traces of white crystalline substance;
- (c) two (2) empty strips of aluminum foil;
- (d) one (1) pin;
- (e) one (1) pair of scissors;
- (f) one (1) improvised bamboo tongs;
- (g) one (1) pack of empty small transparent plastic bag;
- (h) one (1) improvised burner; and
- (i) two (2) disposable lighters.

all are fit or intended for smoking, consuming, administering, injecting any dangerous drug into the body.^[8]

On 30 April 2003, appellant, having been charged without the benefit of a preliminary investigation, filed a motion for reinvestigation.^[9] On 14 May 2003, the trial court granted the motion and ordered the Pasig City Prosecutor to conduct a preliminary investigation.^[10] With the finding of the City Prosecutor that no cogent reason existed to modify or reverse its previous finding of probable cause against accused-appellant, the trial court set the cases for arraignment and trial.^[11]

When arraigned on 4 September 2003, appellant, with the assistance of counsel *de oficio*, pleaded not guilty to the crimes charged.^[12]

During the pre-trial conference, appellant admitted the existence and the contents of the Request for Laboratory Examination^[13] and the Forensic Chemist Report,^[14] with the qualification that the subject of the forensic report was not taken from him, and if ever same was taken from him, it was obtained illegally.^[15]

With the termination of the pre-trial conference, the cases were heard jointly.

The prosecution presented two witnesses: PO1 Joselito Esmallaner^[16] and SPO3 Leneal Matias,^[17] both members of the Station Drug Enforcement Unit of the Pasig City Police Station.

The version of the prosecution is as follows:

On 22 April 2003, SPO4 Danilo Tuaño, Officer-in-Charge of the Station Drug Enforcement Unit of the Pasig City Police Station, designated PO1 Joselito Esmallaner to act as a poseur-buyer in a buy-bust operation to be conducted against appellant along Beverly Street, Barangay Buting, Pasig City. At around 10:30 p.m., the buy-bust team headed by SPO3 Leneal Matias arrived at the target area. PO1 Esmallaner and the informant proceeded to the unnumbered

house of appellant, while SPO3 Matias and the other members of the team positioned themselves around ten (10) meters away to serve as back-up.

After the informant knocked on appellant's front door, the latter came out. Upon recognizing the informant, appellant asked, "*Pare, ikaw pala. Bibili ka ba?*" The informant who was standing next to PO1 Esmallaner replied "*Oo, itong kasama ko kukuha.*" Appellant then asked PO1 Esmallaner how much drugs he intended to buy to which PO1 Esmallaner replied, "P100 lang." PO1 Esmallaner thereafter gave a one hundred peso (P100.00) bill to the appellant. Thereafter, the appellant went inside the house. Appellant returned and handed to PO1 Esmallaner a plastic sachet containing a white crystalline substance later found to be *shabu*.^[18]

Upon receiving the plastic sachet, PO1 Esmallaner grabbed appellant's hand and got the P100.00 bill from the right front pocket of appellant's pants. He introduced himself as a police officer and informed the appellant of his violation and his constitutional rights. PO1 Esmallaner then marked the plastic sachet^[19] and placed his initials "JE" on the upper right portion of the P100.00^[20] bill with serial number FX230133.^[21]

After seeing that PO1 Esmallaner tried to grab the hand of appellant, who was able to run inside the house and tried to lock the door, SPO3 Matias and the other members of the team followed PO1 Esmallaner inside appellant's house. Matias saw three pieces of heat-sealed transparent plastic sachets^[22] containing a white crystalline substance which turned out to be *shabu*, two disposable lighters,^[23] six strips of aluminum foil with traces of *shabu*,^[24] improvised water pipe used as tooter,^[25] improvised burner,^[26] wooden sealer, small scissors,^[27] 14 pieces of transparent plastic sachets,^[28] and one small needle^[29] on top of a small chair (*bangkito*). The items confiscated were marked and turned over to the Investigator who requested laboratory examination on said items.

On 23 April 2003, Chemistry Report No. D-733-03E^[30] was issued with the conclusion that the four sachets, together with four other unsealed transparent plastic bags and a water pipe used as tooter, taken from appellant, were positive for Methamphetamine Hydrochloride (*shabu*). On the same date, poseur-buyer PO1 Esmallaner and team leader SPO3 Matias executed their Joint Affidavit of Arrest.^[31]

For the defense, appellant^[32] took the witness stand together with his common-law wife, Gina Dean.^[33]

Appellant and his common-law wife deny that a buy-bust occurred. Appellant claims that at about 10:00 p.m. of 22 April 2003, he and his common-law wife were with their three children in their house in Beverly Street, Buting, Pasig City, when somebody kicked the door of their house. Appellant was in the comfort room, while his common-law wife was in the bedroom taking care of their children. Thereafter, four persons, later identified as police officers Esmallaner, Mapula, Espares and Familiara, entered without any warrant of arrest or search warrant. He asked them what they wanted and he was told that they were going to arrest him. When he asked for the reason why he was being arrested, he was told that he would just be informed in their office. With his hands on his back, appellant was handcuffed. The policemen subsequently conducted a search in the house, but they neither recovered nor took anything. After that, appellant was brought to the police station, investigated and placed in jail. He added that the violent entry made by the policemen was witnessed by some of his neighbors, namely, Buboy, Macmac and Zaldy, who were then having a drinking session.

On 19 August 2004, the trial court promulgated its decision finding appellant guilty beyond reasonable doubt of the crimes charged. It disposed of the cases as follows:

WHEREFORE, premises considered, the accused **ALVIN PRINGAS** is hereby found **GUILTY** beyond reasonable doubt of Violation of Section 5 of R.A. 9165

(illegal sale of shabu) and he is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine of **P500,000.00**.

Accused **ALVIN PRINGAS** is also found **GUILTY OF** Violation of Section 11 of the same law and he is hereby sentenced to suffer the indeterminate penalty of **TWELVE (12) YEARS and ONE (1) DAY to FIFTEEN (15) YEARS** of imprisonment and to pay a fine of P400,000.00 and also of violation of Section 12 of R.A. 9165, and he is hereby sentenced to suffer imprisonment from **SIX (6) MONTHS (and) ONE (1) DAY** as minimum to **THREE (3) YEARS and ONE (1) DAY** as maximum, and to pay a fine of **P10,000.00**.

Considering the penalty imposed, the immediate commitment of the accused to the National Bilibid Prisons is ordered.

The Court fully realizes that the penalty prescribed by law for the offense committed by the accused is quite severe. However, the Court will not question the wisdom of the law and of the legislators who passed it. *Dura lex, sed lex*. The only thing that the Court can do is to recommend that the accused be pardoned after he shall have served the minimum period of the penalty imposed on him.^[34]

On 3 September 2004, appellant, through counsel, appealed the decision to the Court of Appeals *via* a Notice of Appeal.^[35] With the filing of the Notice of Appeal, the trial court transmitted^[36] the records of the case to the Court of Appeals for review pursuant to *People v. Mateo*.^[37]

In its Decision dated 31 August 2006, the Court of Appeals dismissed appellant's appeal and affirmed *in toto* the decision of the trial court.^[38]

Unsatisfied, appellant appealed his conviction before this Court by way of a Notice of Appeal.^[39]

With the elevation of the records to the Court and the acceptance of the appeal, the parties were required to file their respective supplemental briefs, if they so desired, within 30 days from notice.^[40] The parties manifested that they were not filing supplemental briefs, arguing that the issues of the case had been discussed in their respective briefs.^[41]

Appellant makes a lone assignment of error, to wit:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE OFFENSES CHARGED DESPITE THE INADMISSIBILITY OF THE EVIDENCE HAVING BEEN OBTAINED IN VIOLATION OF SECTIONS 21 AND 86, REPUBLIC ACT NO. 9165.

Appellant argues that the apprehending police officers' failure to comply with the provisions (Sections 21 and 86) of Republic Act No. 9165 casts doubt on the validity of appellant's arrest and the admissibility of the evidence allegedly seized from him. He maintains that since the procurement of the evidence, both documentary and testimonial, during the buy-bust operation was violative of said law and of his constitutional right against illegal arrest, the same should not have been received in evidence to prove his guilt they being inadmissible under the law.

Appellant claims that the police officers violated Section 86 of Republic Act No. 9165 when the alleged buy-bust operation that led to the apprehension of appellant was conducted without the involvement of the Philippine Drug Enforcement Agency (PDEA). It is his contention that nowhere in the Joint Affidavit of Arrest executed by the members of the arresting team was it shown that the buy-bust operation was conducted with the assistance, coordination, knowledge or consent of the PDEA.

We find this claim untenable.

In the Joint Affidavit of Arrest, it is stated that "That, on or about 10:30 PM April 22, 2003, as instructed by SPO4 DANILO TUAÑO, OIC/SDEU, this Office effected a coordination to (sic) Metro Manila Regional Office of PDEA and formed a team of SDEU operatives with a confidential informant to conduct anti-narcotics/Buy-bust operation against the said person x x x."^[42] This portion of the affidavit clearly negates appellant's claim that the buy-bust operation subject of the case was not with the involvement of the PDEA. Even assuming *ex gratia argumendi* that the aforementioned statement was not contained in the affidavit, appellant's claim of lack of involvement of the PDEA will render neither his arrest illegal nor the evidence seized from him inadmissible. Quoting *People v. Sta. Maria*,^[43] we resolved the very same issue in this wise:

Appellant would next argue that the evidence against him was obtained in violation of Sections 21 and 86 of Republic Act No. 9165 because the buy-bust operation was made without any involvement of the Philippine Drug Enforcement Agency (PDEA). Prescinding therefrom, he concludes that the prosecution's evidence, both testimonial and documentary, was inadmissible having been procured in violation of his constitutional right against illegal arrest.

The argument is specious.

Section 86 of Republic Act No. 9165 reads:

Sec. 86. Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions. - The Narcotics Group of the PNP, the Narcotics Division of the NBI and the Customs Narcotics Interdiction Unit are hereby abolished; however they shall continue with the performance of their task as detail service with the PDEA, subject to screening, until such time that the organizational structure of the Agency is fully operational and the number of graduates of the PDEA Academy is sufficient to do the task themselves: *Provided*, That such personnel who are affected shall have the option of either being integrated into the PDEA or remain with their original mother agencies and shall, thereafter, be immediately reassigned to other units therein by the head of such agencies. Such personnel who are transferred, absorbed and integrated in the PDEA shall be extended appointments to positions similar in rank, salary, and other emoluments and privileges granted to their respective positions in their original mother agencies.

The transfer, absorption and integration of the different offices and units provided for in this Section shall take effect within eighteen (18) months from the effectivity of this Act: *Provided*, That personnel absorbed and on detail service shall be given until five (5) years to finally decide to join the PDEA.

Nothing in this Act shall mean a diminution of the investigative powers of the NBI and the PNP on all other crimes as provided for in their respective organic laws: *Provided*, however, That when the investigation being conducted by the NBI, PNP or any *ad hoc* anti-drug task force is found to be a violation of any of the provisions of this Act, the PDEA shall be the lead agency. The NBI, PNP or any of the task force shall immediately transfer the same to the PDEA: *Provided, further*, That the NBI, PNP and the Bureau of Customs shall maintain close coordination with the PDEA on all drug related matters.

Cursory read, the foregoing provision is silent as to the consequences of failure on

the part of the law enforcers to transfer drug-related cases to the PDEA, in the same way that the Implementing Rules and Regulations (IRR) of Republic Act No. 9165 is also silent on the matter. But by no stretch of imagination could this silence be interpreted as a legislative intent to make an arrest without the participation of PDEA illegal nor evidence obtained pursuant to such an arrest inadmissible.

It is a well-established rule of statutory construction that where great inconvenience will result from a particular construction, or great public interests would be endangered or sacrificed, or great mischief done, such construction is to be avoided, or the court ought to presume that such construction was not intended by the makers of the law, unless required by clear and unequivocal words.

As we see it, Section 86 is explicit only in saying that the PDEA shall be the "lead agency" in the investigations and prosecutions of drug-related cases. Therefore, other law enforcement bodies still possess authority to perform similar functions as the PDEA as long as illegal drugs cases will eventually be transferred to the latter. Additionally, the same provision states that PDEA, serving as the implementing arm of the Dangerous Drugs Board, "shall be responsible for the efficient and effective law enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemical as provided in the Act." We find much logic in the Solicitor General's interpretation that it is only appropriate that drugs cases being handled by other law enforcement authorities be transferred or referred to the PDEA as the "lead agency" in the campaign against the menace of dangerous drugs. Section 86 is more of an administrative provision. By having a centralized law enforcement body, *i.e.*, the PDEA, the Dangerous Drugs Board can enhance the efficacy of the law against dangerous drugs. To be sure, Section 86(a) of the IRR emphasizes this point by providing:

(a) Relationship/Coordination between PDEA and Other Agencies. - The PDEA shall be the lead agency in the enforcement of the Act, while the PNP, the NBI and other law enforcement agencies shall continue to conduct anti-drug operations in support of the PDEA x x x. *Provided, finally*, that nothing in this IRR shall deprive the PNP, the NBI, other law enforcement personnel and the personnel of the Armed Forces of the Philippines (AFP) from effecting lawful arrests and seizures in consonance with the provisions of Section 5, Rule 113 of the Rules of Court.

As regards the non-participation of PDEA in a buy-bust operation, we said:

[T]he challenged buy-bust operation, albeit made without the participation of PDEA, did not violate appellant's constitutional right to be protected from illegal arrest. There is nothing in Republic Act No. 9165 which even remotely indicate the intention of the legislature to make an arrest made without the participation of the PDEA illegal and evidence obtained pursuant to such an arrest inadmissible.

Moreover, the law did not deprive the PNP of the power to make arrests.^[44]

As regards Section 21 of Republic Act No. 9165, appellant insists there was a violation of said section when pictures, showing him together with the confiscated *shabu*, were not immediately taken after his arrest. He added that the Joint Affidavit of Arrest of the apprehending team did not indicate if the members thereof physically made an inventory of the illegal drugs in the presence of the appellant or his/her representative or counsel, a representative from the media and the Department of Justice, and any elected public official who shall be required to sign the copies of the inventory and given a copy thereof. In short, appellant insists that non-compliance with Section 21 regarding the custody and disposition of the confiscated/seized dangerous drugs and paraphernalia, *i.e.*, the taking of pictures and the making of an inventory, will make these items inadmissible in evidence.

We do not agree. Section 21 reads:

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

(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.

Non-compliance by the apprehending/buy-bust team with Section 21 is not fatal as long as there is justifiable ground therefor, and as long as the integrity and the evidentiary value of the confiscated/seized items, are properly preserved by the apprehending officer/team.^[45] Its non-compliance will not render an accused's arrest illegal or the items seized/confiscated from him inadmissible. 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. In the case under consideration, we find that the integrity and the evidentiary value of the items involved were safeguarded. The seized/confiscated items were immediately marked for proper identification. Thereafter, they were forwarded to the Crime Laboratory for examination.

Though the justifiable ground for non-compliance with Section 21 was not expressly stated by the arresting/buy-bust team, this does not necessarily mean that appellant's arrest was illegal or the items seized/confiscated inadmissible. In the case at bar, as in *Sta. Maria*, the justifiable ground will remain unknown because appellant did not question during the trial the custody and disposition of the items taken from him. Assuming that Sections 21 and 86 were indeed breached, appellant should have raised these issues before the trial court. This, he did not do. Never did he question the custody and disposition of the items that were supposedly taken from him. It was only on appeal before the Court of Appeals that he raised them. This, he cannot do. We held:

The law excuses non-compliance under justifiable grounds. However, whatever justifiable grounds may excuse the police officers involved in the buy-bust operation in this case from complying with Section 21 will remain unknown, because appellant did not question during trial the safekeeping of the items seized from him. Indeed, the police officers' alleged violations of Sections 21 and 86 of Republic Act 9165 were not raised before the trial court but were raised instead for the first time on appeal. In no instance did appellant least intimate at the trial court that there were lapses in the safekeeping of seized items that affected their integrity and evidentiary value. Objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of objection. Without such objection he cannot raise the question for the first time on appeal.^[46]

Appellant was charged with violations of Sections 5, 11 and 12 of Republic Act No. 9165. Appellant was charged with violation of Section 5 for selling 0.03 gram of methamphetamine hydrochloride (*shabu*). The elements necessary for the prosecution of illegal sale of drugs are: (1) the identity of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor.^[47] What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction took place, coupled with the presentation in court of evidence of *corpus delicti*.^[48]

The evidence for the prosecution showed the presence of all these elements. The poseur-buyer and the team leader of the apprehending team narrated how the buy-bust happened, and that the *shabu* sold was presented and identified in court. The poseur-buyer, PO1 Joselito Esmallaner, identified appellant as the seller of the *shabu*. Esmallaner's testimony was corroborated by the team leader, SPO3 Leneal Matias. The white crystalline substance weighing 0.03 grams which was bought from appellant for P100.00 was found positive for methamphetamine hydrochloride (*shabu*) per Chemistry Report No. D-733-03E.

In this jurisdiction, the conduct of a buy-bust operation is a common and accepted mode of apprehending those involved in the illegal sale of prohibited or regulated drugs. It has been proven to be an effective way of unveiling the identities of drug dealers and of luring them out of obscurity.^[49] Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies on the operation deserve full faith and credit.^[50]

In the case at bar, we find the testimonies of PO1 Joselito Esmallaner and SPO3 Leneal Matias credible. It is a fundamental rule that findings of the trial courts which are factual in nature and which involve credibility are accorded respects when no glaring errors, gross misapprehension of facts and speculative, arbitrary and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial.^[51] The rule finds an even more stringent application where said findings are sustained by the Court of Appeals.^[52] Finding no reason to depart from the findings of the trial court and the Court of Appeals, we stand by their findings.

We, likewise, uphold the presumption of regularity in the performance of official duties. Said presumption was not overcome, as there was no evidence showing that PO1 Joselito Esmallaner and SPO3 Leneal Matias were impelled by improper motive. Appellant and his common-law wife testified that the members of the buy-bust team were complete strangers.^[53]

Appellant's defense that there was no buy-bust operation deserves scant consideration. Having been caught in *flagrante delicto*, his identity as seller of the *shabu* can no longer be doubted. Against the positive testimonies of the prosecution witnesses, appellant's plain denial of the offenses charged, unsubstantiated by any credible and convincing evidence, must simply fail.^[54] Being his common-law wife, we find Gina Dean not to be a credible witness. Appellant said three of his neighbors witnessed the violent entry made by the policemen in his house, but he failed to present them or any of them to prove his point.

Appellant was, likewise, charged with possession of three sachets of *shabu* with a total weight of 0.29 gram. In illegal possession of dangerous drugs, the elements are: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.^[55] All these elements have been established.

SPO3 Leneal Matias narrated how he discovered the three pieces of heat-sealed transparent plastic sachets containing a white crystalline substance and other drug paraphernalia on top of a small chair (*bangkito*) in the house of appellant.

Q. After the accused handed something to PO1 Esmallaner, what else happened?

A. I saw PO1 Esmallaner try to grab the hand of the accused, but the accused was able to run inside their house, and tried to close the door, sir.

Q. As a member of the back-up team upon seeing this incident, what did you do, if any?

A. We gave support to PO1 Esmallaner, sir.

Q. Will you please tell us what kind of support did you give to PO1 Esmallaner?

A. To arrest the accused, sir.

Q. What did you do in particular?

A. PO1 Esmallaner followed the accused inside me and my group followed Esmallaner also inside the house, sir.

Q. So, in other words you, and your co-members also went inside the house?

A. Yes, sir.

Q. When [you] went inside the house, what did you find out if any?

A. PO1 Esmallaner accosted the accused, while I discovered three (3) pieces of heat sealed transparent plastic sachet containing undetermined amount of white crystalline substance suspected to be shabu, and other paraphernalia on top of the small "*bangkito*," sir.

Q. Were these three (3) sachet and paraphernalia were scattered on the small "*bangkito*?"

A. Yes, sir.

Q. And what did you do, if any when you discovered the presence of these items?

A. I confiscated it and then I marked it, sir.

Q. When you said it what would this?

A. The drug paraphernalia, and the heat plastic sachet, sir.

Q. Could you remember one by one what are those paraphernalia that you confiscated and marked it?

A. The paraphernalia are two (2) disposable lighter colored red and yellow, six (6) pieces of small stripe of aluminum foil with traces of suspected *shabu* improvised water pipe used as tooter, improvised burner, wooden sealer, and the three (3) pieces heat plastic sachet, fourteen (14) pieces of transparent plastic sachet. That is all I can remember, sir.

Q. Did you place markings on that items that you confiscated?

A. Yes, sir. ^[56]

Appellant was indeed the owner of these items for they were found in his house on top of the *bangkito* following the buy-bust operation and after his arrest. The substance in the plastic sachets was *shabu* as confirmed by Chemistry Report No. D-733-03E. Finally, the drug paraphernalia seized are sufficient to prove that appellant also violated Section 12 of Republic Act No. 9165.

Reviewing the penalties imposed by the trial court as affirmed by the Court of Appeals, we find them to be in order.

WHEREFORE, premises considered, the instant appeal is **DENIED**. The Decision of the

Court of Appeals in CA-G.R. CR-HC No. 00303 dated 31 August 2006 which affirmed *in toto* the decision of the Regional Trial Court (RTC) of Pasig City, Branch 154, convicting accused-appellant Alvin Panganiban Pringas of Violation of Sections 5, 11 and 12 of Republic Act No. 9165, is hereby **AFFIRMED**. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Penned by Associate Justice Josefina Guevara-Salonga with Associate Justices Vicente Q. Roxas and Apolinario D. Bruselas, Jr., concurring. *CA rollo*, pp. 99-111.

[2] Records, pp. 94-100.

[3] Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.

[4] Possession of Dangerous Drugs.

[5] Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs.

[6] Records, p. 1.

[7] *Id.* at 14.

[8] *Id.* at 16-17.

[9] *Id.* at 20.

[10] *Id.* at 22.

[11] *Id.* at 28.

[12] *Id.* at 34.

[13] Exh. A, *id.* at 74-75.

[14] Exh. B, *id.* at 76.

[15] Records, pp. 36-37.

[16] TSN, 4 March 2004 and 21 April 2004.

[17] TSN, 5 May 2004.

[18] TSN, 4 March 2004, pp. 4-5.

[19] Exh. E, records, p. 71.

- [20] Exh. C, id. at 77.
- [21] Should be FX231033.
- [22] Exhs. F to H, records, p. 95.
- [23] Exh. K, id.
- [24] Exh. J, id.
- [25] Exh. I, id.
- [26] Exh. L, id.
- [27] Exh. N, id.
- [28] Exh. O, id.
- [29] Exh. Q, id. at 96.
- [30] Exh. A, id. at 74-75.
- [31] Exh. D, id. at 78-79.
- [32] TSN, 26 May 2004.
- [33] TSN, 4 August 2004.
- [34] Records, p. 100.
- [35] Id. at 103.
- [36] Id. at 104.
- [37] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [38] *Rollo*, p. 110.
- [39] Id. at 114.
- [40] Id. at 15.
- [41] Id. at 16-17, 19-20.
- [42] Records, p. 78.
- [43] G.R. No. 171019, 23 February 2007.
- [44] Id.

[45] Id., citing Section 21.a. of the Implementing Rules and Regulation of Republic Act No. 9165.

Section 21. (a) 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.

[46] *People v. Sta. Maria*, id.

[47] *People v. Adam*, 459 Phil. 676, 684 (2003).

[48] *People v. Nicolas*, G.R. No. 170234, 8 February 2007, 515 SCRA 187, 198.

[49] *People v. Cabugatan*, G.R. No. 172019, 12 February 2007, 515 SCRA 537, 552.

[50] *People v. Del Mundo*, G.R. No. 169141, 6 December 2006, 510 SCRA 554, 565-566.

[51] *People v. Julian-Fernandez*, 423 Phil. 895, 910 (2001).

[52] *People v. Cabugatan*, supra note 49 at 547.

[53] TSN, 26 May 2004, p. 14, 4 August 2004, p. 12.

[54] *People v. Sy*, G.R. No. 171397, 27 September 2006, 503 SCRA 772, 783.

[55] *People v. Khor*, 366 Phil. 762, 795 (1999).

[56] TSN, 5 May 2004, pp. 7-9.