

## THIRD DIVISION

[ G.R. No. 182178, August 15, 2011 ]

**STEPHEN SY Y TIBAGONG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**PERALTA, J.:**

This is a petition for review on *certiorari* seeking to reverse and set aside the Decision<sup>[1]</sup> dated October 24, 2007 of the Court of Appeals (CA) in CA-G.R. CR No. 00402, which in turn affirmed *in toto* the Decision of the Regional Trial Court (RTC), Branch 30, Dumaguete City, in Criminal Case No. 17614 convicting petitioner of violation of Section 11, Article II of Republic Act (RA) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, as well as the Resolution<sup>[2]</sup> dated March 7, 2008, denying petitioner's motion for reconsideration.

The factual and procedural antecedents are as follows:

Under an Information dated June 12, 2005, petitioner Stephen T. Sy was indicted for violation of Section 11, Article II of RA No. 9165, the accusatory portion of which reads:

That on or about the 11<sup>th</sup> day of June 2005, in the City of Dumaguete, Philippines and within the jurisdiction of this Honorable Court, the said [petitioner], not being authorized by law, did, then and there willfully, unlawfully and feloniously possess and keep one (1) heat-sealed transparent plastic sachet containing 0.02 gram of white crystalline substance of Methamphetamine Hydrochloride, commonly known as "shabu," a dangerous drug.

Contrary to Section 11, Article II of R.A. 9165.<sup>[3]</sup>

Upon his arraignment, petitioner, with the assistance of counsel, pleaded not guilty to the crime charged. Consequently, trial on the merits ensued.

To establish its case, on the one hand, the prosecution presented Police Senior Inspector Maria Ana Rivera-Dagdasas, Police Officer (PO) 3 Liberato Faelogo, PO3 Dario Paquera, *Barangay Kagawad* Rogelio Talavera, PO2 Glenn M. Corsame, and Reysan Elloren.

On the other hand, the defense presented the petitioner as its sole witness.

#### Evidence for the Prosecution

PO3 Faelogo, a member of the PNP and assigned as Intelligence Operative of the Dumaguete City Police Station, testified that at about 2 o'clock in the afternoon of June 11, 2005, while he was on duty, their office received a telephone call from a concerned citizen that an illegal drug trade was going on at Zone 3, Barangay Looc, Dumaguete City. With him at that time was PO3 Paquera. PO3 Faelogo averred that the two (2) of them immediately responded and went to the place as reported.

While walking at the pathway going to the interior portion of Zone 3, Barangay Looc, at a distance of about two (2) meters away, they saw a man, later identified as the [petitioner] in this case, examining a transparent plastic sachet containing shabu powder by flicking the same. They approached the [petitioner], introduced themselves as policemen and announced his arrest for illegal possession of dangerous drug. PO3 Faelogo then apprised the [petitioner] of his constitutional rights but while doing so, the [petitioner] hurriedly boarded on his motorcycle for a possible escape. PO3 Faelogo was not able to finish his recital of the constitutional rights of the [petitioner]. PO3 Faelogo had to wrestle with the [petitioner] who dropped the sachet of shabu on the ground. While PO3 Faelogo and the [petitioner] were wrestling, PO3 Paquera picked up the said sachet of shabu. After a few minutes of struggle, they were able to subdue the [petitioner] and handcuff him. PO3 Faelogo continued to inform the [petitioner] of his constitutional rights in the Cebuano dialect. The [petitioner] was searched and found in his possession was a disposable lighter. PO3 Paquera gave the plastic sachet of shabu to PO3 Faelogo who made markings on it with the initials "SS 06-11-05" with SS to mean the name of the [petitioner] Stephen Sy and the numbers, the date of the incident. They then brought the [petitioner] with the seized items to the police station. They were not able to conduct an inventory in the crime scene, as there was a commotion where some people tried to rescue the [petitioner]. For their safety, they left the area.

At the police station, PO3 Paquera took a photograph of the [petitioner] and the seized items. PO3 Faelogo then conducted an inventory of the recovered sachet of shabu including the disposable lighter in the presence of DOJ Representative Pros. Angelita Alcoran, Brgy. Kagawad Rogelio Talavera of Barangay Looc, the elected official representative, Reysan Elloren, the media representative and PO2 Glenn Corsame of the PDEA, who all signed the receipt of property seized. The [petitioner] was given a copy of the receipt. PO2 Corsame had the incident recorded in the PDEA blotter.

PO3 Faelogo also averred that he was the one who submitted the seized one (1) heat-sealed transparent plastic sachet containing white crystalline pow[er/granules to the PNP Crime Laboratory, together with a letter request dated June 11, 2005 of the Chief of Police of Dumaguete City Police Station. The [petitioner] was not subjected to drug examination, as no drug testing kit was available at that time.

It was Police Senior Inspector Maria Ana Rivera-Dagdasas, forensic chemical officer of the Negros Oriental Provincial Crime Laboratory who received the seized one (1) heat-sealed transparent plastic sachet with marking "SS-06-11-05" and conducted a laboratory examination on the contents thereof. She re-marked the sachet as Specimen A which had a weight of 0.02 gram. Her qualitative examination conducted on the specimen gave positive result to the tests for the presence of methamphetamine hydrochloride, a dangerous drug under RA 9165. Her conclusion was that Specimen A contained methamphetamine hydrochloride, a dangerous drug under RA 9165. Her examination results were embodied in a Chemistry Report No. D-103-05 and a certification, which she signed and submitted.

In support of the case filed, PO3 Faelogo and PO3 Paquera executed a joint affidavit of arrest, which they identified in Court.<sup>[4]</sup>

## Evidence for the Defense

The [petitioner] claimed that on June 11, 2005 at around 2 o'clock in the afternoon, he was in Barangay Looc to book a masseur to massage him in the evening. As he was not able to find the person to massage him, the [petitioner] started to go home. While he was about to board his motorcycle, one of two (2) men, whom he had seen

earlier from a distance, immediately handcuffed him in his left wrist. The [petitioner] was not given a warning and he was surprised why he was handcuffed especially since he had not committed any crime. Fearing for his life, the [petitioner] resisted and told the person who handcuffed him, "What am I charged of?" The [petitioner] was told to just keep quiet. The [petitioner] told the person to search him first before he should handcuff him. The [petitioner] continued to resist the person and they wrestled with each other. Noticing that this person had a gun tucked in his waist, the [petitioner] did not resist anymore. The [petitioner] was frisked in his pockets, in his cap and other parts of his body, including his brief wherein the person inserted his hand inside. The pants of the [petitioner] were also removed. The search was conducted in full view of many onlookers, but still nothing was found on the [petitioner]. One of the persons then picked up something, which the [petitioner] could not see and was told that it was shabu and a lighter. The [petitioner] was then brought to the Dumaguete City Police Station. The [petitioner] later learned at the police station the identity of the persons who arrested him, namely, Liberato Faelogo and Dario Paquera. At the police station, a photograph was taken of the [petitioner]. The [petitioner] then requested that he be subjected to drug examination, but was not tested. The [petitioner] kept on requesting for drug examination for a week but still he was not tested. The [petitioner] also claimed that while he was at the police station and being investigated, he was kicked and punched by no less than the Chief of Police, one named Hidalgo. The [petitioner] tried to protest but was not able to do anything, as nobody was around to help him.<sup>[5]</sup>

On May 12, 2006, the RTC, after finding that the prosecution has established all the elements of the offense charged, rendered a Decision<sup>[6]</sup> convicting petitioner of violation of Section 11, Article II of RA No. 9165, the dispositive portion of which reads:

WHEREFORE, the Court hereby renders judgment finding the accused Stephen Sy y Tibagong GUILTY beyond reasonable doubt of the offense of illegal possession of 0.02 gram of Methamphetamine Hydrochloride or shabu in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and (1) day, as minimum, term to fourteen (14) years, as maximum term, and to pay a fine of Three Hundred Thousand Pesos (P300,000.00).

The seized one (1) heat-sealed transparent plastic sachet containing 0.02 gram of white crystalline substance of Methamphetamine Hydrochloride or shabu is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

SO ORDERED.<sup>[7]</sup>

Aggrieved, petitioner appealed the Decision before the CA, which was later docketed as CA-G.R. CR No. 00402.

On October 24, 2007, the CA rendered a Decision affirming *in toto* the decision of the RTC, the dispositive portion of which reads:

**WHEREFORE**, in view of the foregoing, the appeal is hereby **DISMISSED** and the assailed decision of the lower court finding accused-appellant guilty beyond reasonable doubt for violation of Section 11, Article II of Republic Act No. 9165 is hereby **AFFIRMED** *in toto*.

SO ORDERED.<sup>[8]</sup>

Petitioner filed a motion for reconsideration, but was denied in the Resolution dated March 7, 2008.

Hence, the petition raising the following errors:

I

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE POLICE OFFICERS ENJOYED THE PRESUMPTION OF REGULARITY IN THE PERFORMANCE OF THEIR DUTY.

II

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT PETITIONER'S WARRANTLESS ARREST WAS VALID.

III

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE RIGHT OF THE PETITIONER AGAINST UNLAWFUL SEARCHES AND SEIZURES WAS NOT VIOLATED.

IV

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THE CONVICTION OF THE PETITIONER BASED ON THE TRANSPARENT PLASTIC SACHET CONSIDERING THAT THE SAME WAS THE "FRUIT OF A POISONOUS TREE" AND COULD NOT BE USED FOR ANY PURPOSE IN ANY PROCEEDING.

V

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT BECAUSE PETITIONER SUBMITTED TO THE JURISDICTION OF THE LOWER COURT, THAT HE ALSO WAIVED HIS RIGHT TO OBJECT TO THE ADMISSION OF THE PLASTIC SACHET IN EVIDENCE.<sup>[9]</sup>

Simply stated, petitioner contends that since he was not doing anything illegal at the time of his arrest that would arouse the suspicion of the arresting officers, his subsequent arrest and the ensuing search upon his person was illegal and, therefore, any alleged illegal drugs recovered from him cannot be used in trial against him, without the risk of violating his constitutional right against unlawful searches and seizure.

Petitioner posits that the arresting officers lacked probable cause when they arrested him. He argues that the act of flicking a clear plastic sachet in broad daylight cannot be perceived as an illegal act. Thus, he was not caught *in flagrante delicto* and the resulting warrantless arrest made by the police officers was invalid. Moreover, the confiscated sachet is not admissible in evidence against him being the fruit of the poisonous tree.

The petition is without merit.

It has been consistently ruled that an accused is estopped from assailing any irregularity of his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground before arraignment. Any objection involving a warrant of arrest or the procedure by

which the court acquired jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived.<sup>[10]</sup>

In the case at bar, petitioner never objected to the irregularity of his arrest before his arraignment. Moreover, he actively participated in the proceedings before the RTC. Thus, he is deemed to have waived any perceived defect in his arrest and effectively submitted himself to the jurisdiction of the court trying his case. At any rate, the illegal arrest of an accused is not sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after a trial free from error. It will not even negate the validity of the conviction of the accused.<sup>[11]</sup>

As to the admissibility of the seized drug in evidence, it is necessary for us to ascertain whether or not the search which yielded the alleged contraband was lawful.<sup>[12]</sup>

Section 5, Rule 113 of the Rules of Court provides:

*Sec 5. Arrest without warrant, when lawful* - A peace officer or a private person may, without a warrant, arrest a person:

- (a) When, in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense;
- (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
- (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

Corolarilly, the 1987 Constitution states that a search and consequent seizure must be carried out with a judicial warrant; otherwise, it becomes unreasonable and any evidence obtained therefrom shall be inadmissible for any purpose in any proceeding.<sup>[13]</sup> Said proscription, however, admits of exceptions, namely:

1. Warrantless search incidental to a lawful arrest;
2. Search of evidence in "plain view;"
3. Search of a moving vehicle;
4. Consented warrantless search;
5. Customs search;
6. Stop and Frisk; and
7. Exigent and emergency circumstances.<sup>[14]</sup>

What constitutes a reasonable or unreasonable warrantless search or seizure is purely a judicial question, determinable from the uniqueness of the circumstances involved, including the purpose of the search or seizure, the presence or absence of probable cause, the manner in which the search and seizure was made, the place or thing searched, and the character of the articles procured.<sup>[15]</sup>

In searches incident to a lawful arrest, the arrest must precede the search; generally, the process cannot be reversed. Nevertheless, a search substantially contemporaneous with an arrest can

precede the arrest if the police have probable cause to make the arrest at the outset of the search. Although probable cause eludes exact and concrete definition, it ordinarily signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged.<sup>[16]</sup>

In the case at bar, the established facts reveal that on June 11, 2005, PO3 Faelogo, an Intelligence Operative of the Dumaguete City Police Station, received information from a concerned citizen that an illegal drug trade was going on at Zone 3, Barangay Looc, Dumaguete City. Together with PO3 Paquera, PO3 Faelogo immediately acted on the information and went to the place. While traversing the pathway going to the interior portion of Zone 3, Barangay Looc, they saw petitioner, at a distance of two (2) meters, examining and flicking a transparent plastic sachet containing shabu powder. The two then approached petitioner, introduced themselves as police officers, and announced the he is being arrested for illegal possession of dangerous drugs. While being informed of his constitutional rights during the arrest, petitioner tried to escape by boarding his motorcycle. While wrestling with PO3 Faelogo, petitioner dropped the sachet of shabu on the ground, which was picked up by PO3 Paquera. The police officers eventually were able to subdue and handcuff petitioner. Upon searching his person, they also found in his possession a disposable lighter. The seized sachet was marked on location. They then brought petitioner, together with the items seized, to the police station and conducted a proper inventory thereof. The heat-sealed transparent sachet containing white crystalline substance was submitted to the PNP Crime Laboratory for drug examination, which later yielded positive results for the presence of methamphetamine hydrochloride, a dangerous drug under RA No. 9165.

From the foregoing, sufficient evidence supports that the warrantless arrest of petitioner was effected under Section 5 (a), or the arrest of a suspect *in flagrante delicto*. The police officers witnessed petitioner flicking a transparent plastic sachet containing white crystalline substance in plain view. Arousing their suspicion that the sachet contains *shabu*, the arresting officers immediately approached petitioner, introduced themselves as police officers and effected the arrest. After laboratory examination, the white crystalline substance placed inside the plastic sachet was found positive for methamphetamine hydrochloride or *shabu*, a regulated drug.

Under these circumstances, petitioner was clearly arrested *in flagrante delicto* as he was then committing a crime, violation of the Dangerous Drugs Act, within the view of the police officers. At the time of his arrest, the police officers were actively performing their duties, since they were following up a tip that there was an illegal drug trade being conducted in the area. This fact, coupled with the overt acts of petitioner, formed sufficient basis on the part of the police officers to believe that a crime was actually being committed. Thus, petitioner's case falls within the exception to the rule requiring a warrant before effecting an arrest. Consequently, the results of the ensuing search and seizure were admissible in evidence to prove petitioner's guilt of the offense charged.

It is a settled rule that in cases involving violations of the Comprehensive Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner.<sup>[17]</sup>

In addition, buttressing the presumption of regularity in the performance of their duties, the arresting officers substantially complied with the rules on the custody and disposition of evidence recovered from petitioner. Section 21, paragraphs 1 and 2, Article II of RA No. 9165 provides:

*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 [Philippine Drug Enforcement Agency] 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;
- (2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

x x x x.

Corolarilly, the implementing provision of Section 21 (a), Article II of the Implementing Rules and Regulations (IRR) of RA No. 9165, provides:

(a) 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:  
*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.*

x x x x. [18]

In the case at bar, the requirements of the law were substantially complied with and the integrity of the drugs seized from petitioner were preserved and safeguarded. From the time of petitioner's arrest, the seized item was properly marked and photographed. Proper inventory was also made in the presence of the representatives from the media, the Department of Justice, the PDEA, and an elected public official, who all signed the receipt of the property seized. The evidence was sent to the Negros Oriental Provincial Crime Laboratory for laboratory examination, which later tested positive for methamphetamine hydrochloride with a weight of 0.02 gram. An unbroken chain of custody of the seized drug had been evidently established by the prosecution.

For conviction of illegal possession of a prohibited drug to lie, the following elements must be established: (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused was freely and consciously aware of being in possession of the drug. [19] Based on the evidence submitted by the prosecution, the above elements were duly established in the present case. Mere possession of a regulated drug *per se* constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused absent a satisfactory explanation of such

possession - the *onus probandi* is shifted to the accused, to explain the absence of knowledge or *animus possidendi*.<sup>[20]</sup>

The Court accords the highest degree of respect to the findings of the lower court as to petitioner's guilt of the offense charged against him, particularly where such findings are adequately supported by documentary as well as testimonial evidence. The same respect holds too as regards the lower court's evaluation of the credibility of the prosecution witnesses. It is a settled policy of this Court, founded on reason and experience, to sustain the findings of fact of the trial court in criminal cases, on the rational assumption that it is in a better position to assess the evidence before it, having had the opportunity to make an honest determination of the witnesses' deportment during the trial.<sup>[21]</sup>

Furthermore, the well-entrenched rule is that the findings of facts of the trial court, as affirmed by the appellate court, are conclusive on this Court, absent any evidence that both courts ignored, misconstrued, or misinterpreted cogent facts and circumstances of substance which, if considered, would warrant a modification or reversal of the outcome of the case.<sup>[22]</sup> In the present case, after a careful evaluation of the records, we find that no oversight was committed by the RTC and the CA to disregard their factual findings that petitioner committed the crime charged against him.

In contrast to the overwhelming evidence of the prosecution, petitioner merely raised the defense of alibi. The defense of denial and frame-up has been invariably viewed by this Court with disfavor, for it can easily be concocted and is a common and standard defense ploy in prosecutions for violation of the Dangerous Drugs Act. In order to prosper, the defense of denial and frame-up must be proved with strong and convincing evidence.<sup>[23]</sup>

To stress, in cases involving violations of the Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses, especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. Moreover, in the absence of proof of motive to falsely impute such a serious crime against the appellant, the presumption of regularity in the performance of official duty, as well as the findings of the trial court on the credibility of witnesses, shall prevail over petitioner's self-serving and uncorroborated denial.<sup>[24]</sup>

As to the propriety of the penalty imposed upon petitioner, We find that the RTC imposed the appropriate penalty.

Section 11, Article II, of RA No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*, provides:

*Section 11. Possession of Dangerous Drugs.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) 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.

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 (P300,000.00) to Four hundred thousand pesos (P400,000.00), 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.* [25]

From the foregoing, illegal possession of less than five (5) grams of methamphetamine hydrochloride or *shabu* is penalized with *imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three Hundred Thousand Pesos (P300,000.00) to Four Hundred Thousand Pesos (P400,000.00)*. The evidence adduced by the prosecution established beyond reasonable doubt that petitioner had in his possession 0.02 gram of *shabu*, or less than five (5) grams of the dangerous drug, without any legal authority.

Applying the Indeterminate Sentence Law, the minimum period of the imposable penalty shall not fall below the minimum period set by the law; the maximum period shall not exceed the maximum period allowed under the law. Taking the foregoing into consideration, the penalty meted out by the RTC, as affirmed by the CA, was within the range provided by RA No. 9165. The appropriate penalty was, therefore, imposed by the lower court.

**WHEREFORE**, premises considered, the appeal is **DENIED**. The Decision dated October 24, 2007 and the Resolution dated March 7, 2008, of the Court of Appeals in CA-G.R. CR No. 00402 are **AFFIRMED**.

**SO ORDERED.**

*Carpio, \* Velasco, Jr., (Chairperson), Brion, \*\* and Sereno, \*\*\* JJ.*, concur.

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\* Designated as an additional member in lieu of Associate Justice Roberto A. Abad, per Special Order No. 1059 dated August 1, 2011.

\*\* Designated as an additional member in lieu of Associate Justice Jose Catral Mendoza, per Special Order No. 1056 dated July 27, 2011.

\*\*\* Designated as an additional member, per Special Order No. 1028 dated June 21, 2011.

[1] Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Francisco P. Acosta and Franchito N. Diamante, concurring; *rollo*, pp. 40-49.

[2] *Id.* at 51-52.

[3] *Rollo*, pp. 40-41.

[4] *Id.* at 53-54

[5] *Id.* at 55.

[6] *Id.* at 53-59.

[7] *Id.* at 58-59.

[8] *Id.* at 48-49.

[9] *Id.* at 11-12.

[10] *Rebellion v. People of the Philippines*, G.R. No. 175700, July 5, 2010, 623 SCRA 343, 348.

[11] *People v. Santos*, G.R. No. 176735, June 26, 2008, 555 SCRA 578, 601.

[12] *Valdez v. People*, G.R. No. 170180, November 23, 2007, 538 SCRA 611, 622.

[13] 1987 Constitution, Article III, Sections 2 and 3 (2).

[14] *People v. Rancho*, G.R. No. 186529, August 3, 2010, 626 SCRA 633, 641.

[15] *People v. Nuevas*, G.R. No. 170233, February 22, 2007, 516 SCRA 463, 476.

[16] *People v. Rancho*, *supra* note 14, at 642.

[17] *People v. Tamayo*, G.R. No. 187070, February 24, 2010, 613 SCRA 556, 564.

[18] Emphasis supplied.

[19] *People v. Teddy Batoon and Melchor Batoon*, G.R. No. 184599, November 24, 2010.

[20] *People v. Sembrano*, G.R. No. 185848, August 16, 2010, 628 SCRA 328, 343.

[21] *People v. Dilao*, G.R. NO. 170359, July 27, 2007, 528 SCRA 427, 439.

[22] *Id.* at 439.

[23] *People v. Hernandez*, G.R. No. 184804, June 18, 2009, 589 SCRA 625, 642-643.

[24] *People v. Dela Rosa*, G.R. No. 185166, January 26, 2011.

[25] Emphasis supplied.