

SECOND DIVISION

[G.R. No. 189843, March 20, 2013]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ZENAIDA SORIANO y USI, AND MYRNA SAMONTE y HIOLLEN, ACCUSED-APPELLANTS.

DECISION

PEREZ, J.:

Before us is an appeal from the Decision^[1] dated 6 February 2009 of the Court of Appeals in CA-G.R. CR-HC No. 02842, which affirmed the trial court's conviction of herein accused-appellants Zenaida Soriano (Zenaida) and Myrna Samonte (Myrna)^[2] for Violation of Sections 5 and 11, Article II of Republic Act No. 9165 (R.A. 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

In three separate Informations^[3] all dated 26 June 2003 filed and raffled to the Regional Trial Court, Branch 78, City of Malolos, Bulacan, accused- appellants were charged with illegal sale and illegal possession of dangerous drugs. They pleaded not guilty to the crimes charged.^[4] After conducting the mandatory pre-trial,^[5] joint trial ensued.

For the prosecution, PO1 Carlito Bernardo (PO1 Bernardo), who was designated poseur-buyer during the buy-bust operation organized by the Bulacan Provincial Drug Enforcement Group (PDEG) against accused- appellants, testified:

x x x [O]n June 10, 2003 while he was assigned at the Provincial Drug Enforcement Group, one of their confidential informant (CI) arrived in the office and was looking for his chief P/Chief Insp. Celodonio Morales. When the C.I. was able to talk to their chief, the C.I. reported that a certain @ Zeny was engaged in selling illegal drugs at Sitio Gulod, Brgy. Tubigan, San Rafael, Bulacan. Thereafter, their chief talked to police officer Tomas Nachor, the Records PNCC of their office to confirm if the name Zeny of Barangay Tubigan, San Rafael, Bulacan was included in the watch list. When it was confirmed that Zeny was among those listed in the watch list, their chief instructed the C.I. to arrange a drug deal with Zeny. At about 5 o'clock in the afternoon, the C.I. returned to their office and informed their chief that he managed to arrange a drug deal with Zeny and the same would take place at [Myrna's house].^[6] Immediately thereafter, their chief conducted a briefing wherein a team was formed composed of SPO1 Violago, as team leader, PO2 Rullan, PO1 Jacinto, PO1 Quizon, PO1 Magora, PO1 Chan and himself to conduct a buy bust operation against Zeny. They were dispatched at about 9:30 o'clock in the evening and were ordered to proceed to the target place. They arrived at [B]arangay Tubigan at about 10:30 in the evening and they set their plan into motion. The C.I. went ahead and was followed by them. As they were approaching the venue, they saw two (2) women talking and according to the C.I. one was Zeny while the other was Myrna. Zeny and Myrna saw them and recognized the C.I. The women then called the C.I. by [waving] their hands at him. When they reached Zeny and Myrna, the C.I. introduced him to the ladies as the[ir] prospective buyer. Zeny immediately demanded for the amount they have agreed upon, in response he handed the two (2)

pieces of one hundred peso bills to Zeny which the latter in turn handed to Myrna. Zeny then took a match box from the pocket of the “duster” she was wearing and took one (1) plastic sachet of shabu there from and handed the same to him. Thereafter, he executed the pre-arranged signal by lighting a lighter prompting his companions to alight from their hiding places and approach them. They introduced themselves as police officers and informed both accused that the same is a buy bust-operation. He frisked Zeny and from her he recovered the match box from where she took the plastic sachet that she sold to him. Violago, on the other hand, searched the person of Myrna and from her they recovered the marked money and one (1) plastic sachet of shabu. The plastic sachet of shabu sold by Zeny was marked by him the letters “BB- CB” while the six (6) other plastic sachets which he recovered from the match box he seized from Zeny was marked by him with B P-1 CB to B P- 6 CB. Violago, on the other hand, marked the plastic sachet recovered from Myrna with “C P RV”. At their office a request for laboratory examination was prepared by their duty investigator and together with the specimen recovered from the accused was sent to the Crime Laboratory for examination. The result thereof yielded positive result for [methamphetamine] hydrochloride, a dangerous drug. Witness positively identified both accused in open court as well as all the pieces of evidence presented by the State.

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Witness further testified that after the operation they boarded both accused in their Tamaraw FX service vehicle and were brought to the PDEG Office at Camp General Alejo Santos in Malolos, Bulacan. Witness then revealed that the markings on the seized evidence were placed by them after they have recovered them from the accused. He, however, admitted that there were no barangay officials present when they recovered the plastic sachets from the accused neither was there any formal report made to the barangay authorities of the buy bust operation.

On re-direct examination, witness testified that accused Samonte and Soriano were known to each other and they were together at the time of the buy bust operation and were only less than a meter apart. It was Zeny who handed the marked money to Myrna after he handed the same to Zeny.^[7]

The corroborating testimony of buy-bust operation team leader SPO2 Rogelio Violago (SPO2 Violago) was ordered stricken off the record due to his repeated failure to reappear in court for cross-examination.^[8]

Meanwhile, the court dispensed with the testimony of forensic chemist P/C Insp. Nelson Cruz Sta. Maria after the defense admitted that, if so presented, the witness will testify on, among others, the identity of the specimen and the request for laboratory examination he received, the actual examination he conducted thereon, and the issuance of Chemistry Report No. D-405-2003 showing that the specimen tested for methamphetamine hydrochloride (*shabu*).^[9]

The Court of Appeals summarized the version of the defense in the following manner:

According to Soriano, while she was at her house preparing milk for her grandson, she heard a noise at the door. As she was approaching the door, five to six armed persons barged into her house. The armed men searched her house. She asked them the reason for the search. The men conducting the search appeared to be drunk. They smelled of liquor. The men, likewise, searched her person. Instead of allowing the men to frisk her, she removed her clothes. One of the men approached her and asked her to accompany him to the store to buy soft drinks. But instead of bringing her to the store she was forcibly taken inside a van. There she saw accused Myrna

Samonte. Both of them were first brought to a hospital in Malolos, Bulacan before proceeding to Camp General Alejo Santos. Once there, they were instructed to alight from the vehicle and was brought inside an office. Inside, the men who arrested her asked if she had any money. The following day, she was informed that a case was filed against her for illegal possession of shabu. She protested and told the police officers that they were lying. She first saw the plastic sachets of shabu used as evidence against her when they were already at Camp General Alejo Santos in Malolos, Bulacan.

Samonte, on the other hand, stated in her testimony that on June 10, 2003, while she, together with her parents, was sleeping at her house in Sitio Gulod, she was awakened by the barking of the dogs. She stood up and peeped through the window to see what the commotion was about. She then heard a knock on the door. She asked for the identity of the person knocking but she heard no reply. Thereafter, she saw two men climb the window. They informed her that they were looking for a person who resides in Samonte's house. They then started searching the house. At this point, Samonte's father woke up and asked them what they were looking for. The men frisked her father but found nothing. Having failed to find what they came for, the men asked Samonte to go with them. She resisted. The men assured her that they just wanted to talk to her. They took her into a van and left her there with the driver. After some time, they came back with Soriano, who she did not know until that night. The men took them to a camp in Malolos where the two women were separated. Samonte was then asked to sign a piece of paper. At first, she refused but the men forced her, thus, she had no choice but to acquiesce. After signing the document, they brought her to a room where she stayed the whole night. The next day, they transferred her to a detention cell. She only came to know that cases were already filed against her during the initial hearing.^[10]

After trial, the court found accused-appellants guilty beyond reasonable doubt of both crimes.^[11] On appeal, the defense denied that there was a legitimate buy-bust operation, and argued that assuming that there was one conducted, it was in effect a form of instigation.^[12] It likewise assailed the credibility of the testimony of the prosecution witness. The Court of Appeals, however, was not convinced. It affirmed the decision of the trial court.^[13]

In its Supplemental Brief^[14] filed with this Court, the defense maintained that the prosecution failed to establish the *corpus delicti* warranting the acquittal of accused-appellants.

We sustain the judgment of conviction.

At the outset, we cannot agree with the position of the defense that the transaction arranged by the confidential informant with accused-appellant Zenaida constitutes instigation. It bears stressing that she was in the Provincial Watch List Target Personality, and "the solicitation merely furnishe[d] evidence of a course of conduct."^[15]

As to the merits of the case, the prosecution has established with moral certainty that accused-appellants sold prohibited drugs and that they were in possession of *shabu*.

To secure a conviction for illegal sale of *shabu*, the prosecution must prove the presence of the following essential elements: "(a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing."^[16] It is necessary to establish that the transaction or sale actually took place, and to bring to the court the *corpus delicti* as evidence.^[17]

The requisites for illegal possession of *shabu*, on the other hand, are the following: "(a) the

accused [was] in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession [was] not authorized by law; and (c) the accused freely and consciously possessed the drug.”^[18]

These requirements were all present in the instant case.

PO1 Bernardo gave a detailed account of the transaction commencing from the introduction made by the confidential informant between him, as the poseur-buyer, and accused-appellants to the time the sale was consummated until the latter were arrested and several additional plastic sachets containing white crystalline substances, which later tested for *shabu*,^[19] were found in their possession – six from Zenaida and one from Myrna.

That the sale actually took place and that several sachets were recovered from the accused-appellants were clear from the following testimony of PO1 Bernardo:

Q: What happened next?
A: We reached the venue and while we were walking, two (2) female persons were talking and according to the CI, one of them is @ Zeny and the other one is @ Myrna.
Q: Who was that person who was telling you that?
A: The CI.
Q: After that, what happened?
A: When the two female persons @ Zeny and Myrna saw us, they recognized the CI so they called us.
Q: How far were you from the 2 women?
A: Approximately, 3 meters, sir.
Q: Who was called by the 2 women?
A: The CI.
Q: How did the 2 women call the CI?
A: By [waving] their hands.
Q: What happened next when the CI was called?
A: I was introduced as the prospective buyer based on their agreement.
Q: What happened when you were introduced to be the prospective buyer?
A: @ Zeny demanded for the payment of the agreed amount.
Q: How did @ Zeny demanded for the amount?
A: She asked for the money.
Q: What did you do?
A: I handed it to @ Zeny.
Q: After you handed the money, what did @ Zeny do?
A: In turn, she handed it to @ Myrna.
Q: You handed it to @ Zeny and in turn, she handed it to @ Myrna, what is that being handed?
A: The money, sir.
Q: What happened after that?
A: She took the match box from her duster’s pocket which contains several pieces of plastic sachet.
Q: After taking the match box from the pocket of her duster, what happened next?
A: She took 1 piece and handed it to me.
Q: By the way, how much was the money you gave?
A: 2 pieces of P100 bill.
COURT:
Q: Who handed to you the plastic sachets?
A: @ Zeny.^[20]
x x x x
Q: After you introduced yourself as policemen and you were conducting a buy

- bust operation, what happened next?
- A: After that I frisked @ Zeny and recovered from her the matchbox containing plastic sachet.^[21]
- x x x x
- Q: The money that you handed to Zeny which in turn was handed to Myrna, what happened to that money?
- A: After I frisked @ Zeny SPO2 Violago frisked @ Myrna and recovered from her the marked money and one piece of transparent plastic sachet containing crystalline substance.^[22]

The credibility of PO1 Bernardo was put to test on cross-examination but his statements were consistent all throughout that we are convinced that his testimony, supported by evidence, was reliable. This is further strengthened by the fundamental principle that:

x x x [F]indings of the trial courts which are factual in nature and which involve the credibility of witnesses are accorded respect 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. The rule finds an even more stringent application where said findings are sustained by the Court of Appeals.^[23]

It is also worthy to note that PO2 Bernardo was able to render a clear and direct narration of the details of the buy-bust operation that led to the arrest of accused-appellants. The accused-appellants, on the other hand, could not impute any ill motive on the part of the arresting officers to falsely accuse them of committing the crimes. In fact, both accused-appellants testified that they did not know the apprehending officers. For these reasons, the contention of the defense that the doctrine of regularity of performance of official duty is inapplicable in the present case must fail.^[24]

The defense now posits that the prosecution failed to establish the *corpus delicti* because the arresting team failed to comply with Section 21(1), Art. II of R.A. 9165,^[25] to wit: (1) there is no showing that a physical inventory was conducted in the presence of the accused or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official; and (2) no photograph of the seized items was taken in the presence of the above- enumerated representatives.^[26]

We have time and again ruled, however, that such omissions are not fatal to the prosecution's case as long as the integrity and evidentiary value of the seized items are preserved.^[27]

Here, on the basis of the testimony of PO1 Bernardo and the documentary evidence presented, the Court of Appeals correctly determined:

x x x **The prosecution also accounted for the chain of custody of the subject substances.** From appellants' possession, police officers Bernardo and Violago seized the sachets of shabu, marked them for evidence before handing them over to their chief Pol/Chief Insp. Celodonio Morales ("Morales"). Morales then requested for a laboratory examination of the seized drugs. Police Inspector Sta. Maria found the white crystalline granules contained in seven heat-sealed transparent plastic sachets to be positive for [methamphetamine] hydrochloride, a dangerous drugs.^[28] (Emphasis supplied; citations omitted)

And, absent a showing of bad faith, ill will, or proof of tampering with the evidence, the presumption that the integrity of the evidence had been preserved lies.^[29] The case of *People v. Quiamanlon*^[30] is instructive on this point:

x x x In this case, Quiamanlon bears the burden to show that the evidence was tampered or meddled with to overcome a presumption of regularity in the handling of exhibits by public officers and a presumption that they properly discharged their duties. Failing to discharge such burden, there can be no doubt that the drugs seized from Quiamanlon were the same ones examined in the crime laboratory. Evidently, the prosecution established the crucial link in the chain of custody of the seized drugs.^[31] (Citations omitted)

All considered, the prosecution has established with moral certainty that the prohibited drugs recovered from the accused-appellants were the same presented in court as evidence.

Finally, we find the penalties imposed by the trial court and the Court of Appeals in order.

Under Section 11, Article II of R.A. No. 9165, the crime of illegal possession of *shabu* weighing less than five (5) grams is punishable by 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).^[32]

On the other hand, Section 5, Article II of the same Act provides that a person found guilty of unauthorized sale of *shabu*, regardless of the quantity and purity involved, shall suffer the penalty of life imprisonment and a fine ranging from Five Hundred Thousand (P500,000.00) Pesos to Ten Million Pesos (P10,000,000.00).^[33]

Applying Section 1 of the Indeterminate Sentence Law,^[34] which provides that “if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same,” the trial court correctly imposed the following penalties:

(1) for the crime of illegal possession of 0.399 gram of *shabu* in Criminal Case No. 2300-M-2003 against accused-appellant Zenaida Soriano, imprisonment for an indeterminate term of twelve years and one day, as minimum, to fourteen years and eight months, as maximum, and a fine of Three Hundred Thousand Pesos (P300,000.00);^[35]

(2) for the crime of illegal possession of 0.511 gram of *shabu* in Criminal Case No. 2301-M-2003 against accused-appellant Myrna Samonte, imprisonment for an indeterminate term of twelve years and one day, as minimum, to fourteen years and eight months, as maximum, and a fine of Three Hundred Thousand Pesos (P300,000.00);^[36] and

(3) for the crime of illegal sale of *shabu* in Criminal Case No. 2302-M-2003 against both accused-appellants, life imprisonment and a fine of Five Hundred Thousand Pesos (P500,000.00) each.^[37]

WHEREFORE, the Decision dated 6 February 2009 of the Court of Appeals in CA-G.R. CR-HC No. 02842 is **AFFIRMED**, and, thereby the 13 April 2007 Decision of the Regional Trial Court in Criminal Case Nos. 2300-M-2003 to 2302-M-2003 is hereby **AFFIRMED in toto**.

SO ORDERED.

[1] CA *rollo*, pp. 94-108. Penned by Associate Justice Magdangal M. de Leon with Associate Justices Jose L. Sabio, Jr. and Ramon R. Garcia concurring.

[2] Records, pp. 323-334. Decision dated 13 April 2007 in Criminal Case Nos. 2300-M-2003 to 2302-M-2003. Penned by Judge Gregorio S. Sampaga.

[3] The Information in Criminal Case No. 2300-M-2003 for violation of Sec. 11 of R.A. 9165 reads: The undersigned Asst. Provincial Prosecutor accuses Zenaida Soriano y Usi of violation of Sec. 11 of R.A. 9165 x x x committed as follows:

That on or about the 10th day of June, 2003, in the municipality of San Rafael, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and legal justification, did then and there willfully, unlawfully, and feloniously have in her possession and control dangerous drug consisting of six (6) pieces of heat-sealed transparent plastic sachets of [methamphetamine] hydrochloride weighing 0.399 gram.

Contrary to law.

The Information in Criminal Case No. 2301-M-2003 also for violation of Sec. 11 of R.A. 9165 reads:

The undersigned Asst. Provincial Prosecutor accuses Myrna Samonte y Hiolen of violation of Sec. 11 of R.A. 9165 x x x committed as follows:

That on or about the 10th day of June 2003, in the municipality of San Rafael, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and legal justification, did then and there willfully, unlawfully and feloniously have in her possession and control dangerous drug consisting of one (1) [piece of] heat-sealed transparent plastic sachet of [methamphetamine] hydrochloride weighing 0.511 gram.

Contrary to law.

The Information in Criminal Case No. 2302-M-2003 for violation of Sec. 5 of R.A. 9165 reads:

The undersigned Asst. Provincial Prosecutor accuses Myrna Samonte y Hiolen and Zenaida Soriano y Usi of violation of Sec. 11 of R.A. 9165 x x x committed as follows:

That on or about the 10th day of June 2003, in the municipality of San Rafael, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and legal justification, did then and there willfully, unlawfully and feloniously sell, deliver, give away, dispatch in transit and transport dangerous drug consisting of one (1) heat sealed transparent plastic sachet of [methamphetamine] hydrochloride weighing 0.078 gram in conspiracy with each other.

Contrary to law.

[4] *Id.* at 2, 5 and 8.

[5] *Id.* at 27 and 29. Separate Orders dated 24 July 2003.

[6] See TSN, 2 December 2004 and Joint Affidavit of Arrest dated 12 June 2003. Records, pp122 and 11.

[7] CA *rollo*, pp. 97-99. Decision dated 6 February 2009 of the Court of Appeals quoting the Decision dated 13 April 2007 of the Regional Trial Court.

[8] Records, p. 217. Order dated 9 March 2006.

[9] *Id.* at 224. Order dated 11 May 2006.

[10] CA *rollo*, pp. 100-101. Decision dated 6 February 2009 of the Court of Appeals.

[11] Records, p. 334. Decision dated 13 April 2007 of the Regional Trial Court.

The dispositive portion of the Decision reads:

WHEREFORE the foregoing considered, this Court finds accused Zenaida Soriano y Usi and Myrna Samonte y Hiolen **GUILTY beyond reasonable doubt** of the offense of Violation of Sections 5 & 11, Art. II of R.A. 9165 otherwise known as the “Comprehensive Dangerous Drugs Act of 2002” and hereby sentences both of them:

1. In Criminal Case No. 2300-M-2002 and 2301-M2003, to suffer the penalty of **TWELVE (12) YEARS AND ONE (1) DAY TO FOURTEEN (14) YEARS AND EIGHT (8) MONTHS OF IMPRISONMENT AND A FINE OF 300,000,000 PESOS** and

2. In Criminal Case No. 2302-M-2003, suffer the penalty of **LIFE IMPRISONMENT AND A FINE OF FIVE HUNDRED THOUSAND PESOS (P500,000.00); and**

X X X X

[12] CA *rollo*, pp. 42-54. Accused-Appellants’ Brief dated 10 January 2008.

[13] *Id.* at 107. Decision dated 6 February 2009 of the Court of Appeals.

[14] *Rollo*, pp. 31-36.

[15] See *People v. Sta. Maria*, G.R. No. 171019, 23 February 2007, 516 SCRA 621-628, where the Court explained:

In entrapment, the entrapper resorts to ways and means to trap and capture a lawbreaker while executing his criminal plan. In instigation, the instigator practically induces the would-be-defendant into committing the offense, and himself becomes a co-principal. **In entrapment, the means originates from the mind of the criminal. The idea and the resolve to commit the crime come from him.** In instigation, the law enforcer conceives the commission of the crime and suggests to the accused who adopts the idea and carries it into execution. The legal effects of entrapment do not exempt the criminal from liability. Instigation does.

It is no defense to the perpetrator of a crime that facilities for its commission were purposely placed in his way, or that the criminal act was done at the “decoy solicitation” of persons seeking to expose the criminal, or that detectives feigning complicity in the act were present and apparently assisting its commission. **Especially is this true in that class of cases where the offense is one habitually committed, and the solicitation merely furnishes evidence of a course of conduct.**¹⁵ (Emphasis and underlining supplied)

[16] *People v. Bautista*, G.R. No. 177320, 22 February 2012, 666 SCRA 518, 529.

[17] *Id.* at 529-530 citing *People v. Naquita*, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 449; *People v. del Monte*, G.R. No. 179940, 23 April 2008, 552 SCRA 627, 637-638; *People v. Santiago*, G.R. No. 175326, 28 November 2007, 539 SCRA 198, 212.

[18] *Id.* citing *People v. Naquita*, *id.* at 451.

[19] Records, p. 14. Chemistry Report No. D-405-2003.

[20] TSN, 15 January 2004. Records, pp. 77-78.

[21] TSN, 19 February 2004. *Id.* at 87.

[22] *Id.* at 88.

[23] *People v. Magundayao*, G.R. No. 188132, 29 February 2012, 667 SCRA 310, 327-328 citing *People v. Santos*, G.R. No. 176735, 26 June 2008, 555 SCRA 578, 592.

[24] *People v. Pambid*, G.R. No. 192237, 26 January 2011, 640 SCRA 722, 734.

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

(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;

[26] *Rollo*, pp. 33-34. Supplemental Brief of the Accused-Appellants.

[27] *People v. Felipe*, G.R. No. 191754, 11 April 2011, 647 SCRA 578, 591 citing *People v. Pagkalinawan*, G.R. No. 184805, 3 March 2010, 614 SCRA 202, 218, further citing *People v. Naquita*, 560 SCRA 430, 448 (2008).

[28] *CA rollo*, p. 103. Decision dated 6 February 2009 of the Court of Appeals.

[29] *People v. Quiamanlon*, G.R. No. 191198, 26 January 2011, 640 SCRA 697, 719.

[30] *Id.*

[31] *Id.* at 719-720.

[32] 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 (P10,000,000.0) 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 xx

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 xxx, methamphetamine hydrochloride or “shabu”, or x x x.

[33] Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals*.

– The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

x x x x

[34] Sec. 1, Act No. 4103.

[35] *Asiatica v. People*, G.R. No. 195005, 12 September 2011, 657 SCRA 443, 452 citing *Balarbar v. People*, G.R. No. 187483, 14 April 2010, 618 SCRA 283, 288.

[36] *Id.*

[37] *People v. Capco*, G.R. No. 183088, 17 September 2009, 600 SCRA 204, 216.