

## THIRD DIVISION

[ G.R. No. 179478, July 28, 2008 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JINGGOY MATEO Y RODRIGUEZ, DEFENDANT-APPELLANT.**

### DECISION

**CHICO-NAZARIO, J.:**

The instant Appeal stemmed from an Information,<sup>[1]</sup> dated 15 January 2003, indicting defendant-appellant Jinggoy Mateo y Rodriguez for violation of Article II, Section 5<sup>[2]</sup> of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and filed with the Regional Trial Court (RTC) of Quezon City, Branch 103. The inculpatory portion of the Information, docketed as Criminal Case No. Q-03-114484, reads:

That on or about the 14<sup>th</sup> day of January, 2003 in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there, [willfully], and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, one (1) transparent plastic sachet of white crystalline substance containing Zero Point Twenty (0.20) gram of Methylamphetamine Hydrochloride, a dangerous drug.<sup>[3]</sup>

Upon arraignment on 25 August 2002, defendant-appellant pleaded not guilty.<sup>[4]</sup> Trial on the merits ensued.

Evidence for the prosecution adduced before the RTC consisted of the sole testimony of witness Police Officer 2 Joseph Ortiz (PO2 Ortiz) who established that in the early morning of 14 June 2003, while he was on "stand-by" duty at the Central Police District in Camp Karingal, Quezon City, his team leader, Senior Police Officer 2 (SPO2) Dante Nagera, upon the tip of an informant ordered him and the rest of his teammates, namely, PO3 Leonardo Ramos, PO1 Peggy Lynne Vargas, and PO1 Estelito Mortega to conduct a buy-bust operation against defendant-appellant Jinggoy Mateo, who was allegedly selling illegal drugs at Sitio Pajo, Baesa, Quezon City.<sup>[5]</sup> Per instructions, PO2 Ortiz was tasked to pose as the poseur-buyer. Following the briefing, his team leader handed him a P200.00 bill which PO2 Ortiz marked with his initials "JO."

On the same day, at around 3:30 a.m., the group, together with their informant, boarded an owner-type jeep and proceeded to the designated place. PO2 Ortiz and the informant managed to locate defendant-appellant in a squatter's area in Sitio Pajo. They found him standing outside his house. The informant later introduced PO2 Ortiz to defendant-appellant. PO2 Ortiz told defendant-appellant that he was going to buy *shabu* or methamphetamine hydrochloride worth P200.00. Defendant-appellant replied, "*Sige, bibili ka.*"<sup>[6]</sup> Defendant-appellant then handed a small plastic sachet to PO2 Ortiz, and in exchange, the latter gave him the marked P200.00 bill. Subsequently, PO2 Ortiz lit a cigarette, the pre-arranged signal to the rest of the buy-bust team that he had bought *shabu*. He introduced himself to defendant-appellant as a policeman, and together with the other members of the operation, arrested the defendant-appellant who was caught by surprise.<sup>[7]</sup> He informed appellant of his right to remain silent, and of the fact that he would be charged with violation of Republic Act No. 9165.<sup>[8]</sup> They

brought him to Camp Karingal, Quezon City.<sup>[9]</sup> Later, PO2 Ortiz sealed the transparent sachet containing the alleged *shabu*, marked the sachet with his initials, "JO,"<sup>[10]</sup> and turned it over to the Desk Officer and then to the investigator.

In his testimony, defendant-appellant declared that he is married with two children, and that he earns P200.00 a day as an assistant to his aunt who operates a video game outlet. For his defense, he posited a contrary account of what transpired. Per his narration, on 14 January 2003 at around 4:00 in the morning, he was suffering from a painful stomach.<sup>[11]</sup> He went to the comfort room which was located 15 meters<sup>[12]</sup> outside his house. Upon coming out of the comfort room, he saw that there was a commotion. He saw several people chasing one another. He also saw his neighbor Marichu Ramos, who told him, "*Jinggoy, mukhang may nagkakagulo diyan.*" He remained outside, near the comfort room. Later, a man in a police uniform and a woman in plain clothes<sup>[13]</sup> approached him, handcuffed him, and put him in a van.<sup>[14]</sup> He was frisked, but after searching him, they did not find anything in his possession.<sup>[15]</sup> He was then brought to Camp Karingal and detained therein. He was, however, never informed of the charges filed against him.<sup>[16]</sup> Defendant-appellant added that it was only two weeks later from the time of his arrest when he was brought for his inquest. On cross-examination, he denied seeing a transparent plastic sachet containing *shabu* and buy-bust marked money being turned over by the police officers to the Desk Officer in Camp Karingal.<sup>[17]</sup> He also admitted that a day after he was arrested, he was brought to the Prosecutor's Office for an inquest before the fiscal, where he was apprised of the charges against him.<sup>[18]</sup> Finally, he consistently declared that he did not resist arrest,<sup>[19]</sup> nor did he protest when he was brought to the police station despite knowing that he did not commit anything illegal.<sup>[20]</sup>

The defense also offered the testimony of Marichu Ramos, defendant-appellant's neighbor, to prove that on the day of the arrest, there was no buy-bust operation that happened within the vicinity of Sitio Pajo, Quezon City. Per her statement, on 14 January 2003 at about 4:00 in the morning, she went outside her house to wait for her *Tita Carmen* to come home from the market. She saw defendant-appellant coming out of the comfort room. They engaged in a conversation when she saw two male persons approach them.<sup>[21]</sup> They handcuffed defendant-appellant.<sup>[22]</sup> Then, she saw them take defendant-appellant inside a van. She then informed defendant-appellant's wife that her husband had been arrested.<sup>[23]</sup>

A forensic examination was conducted on the specimen, subject matter of the case, which showed that the article recovered from defendant-appellant during the buy-bust operation was *shabu* or methylamphetamine hydrochloride.<sup>[24]</sup> On 9 March 2004, the parties stipulated the following pertinent facts, to wit:

2. That Chemistry Report No. D-069-03 was issued by the Forensic Chemist Eng. (sic) Leonard Jabonillo who made the examination on the specimen, subject matter of this case with the finding that said specimen is positive for methylamphetamine hydrochloride;
3. That Certification was issued and was subscribed and sworn to by the Administering Officer;
4. That attached to the report is the transparent plastic sachet with the marking D-069-03 and the marking placed by the Forensic Chemist;
5. That the chemist has no personal knowledge of the fact of the arrest of [defendant-appellant]. He only conducted the examination on the specimen, subject matter of this case.<sup>[25]</sup>

With the above-quoted stipulation, the testimony of Forensic Chemist Engr. Leonard M. Jabonillo was dispensed with.

After the defense rested its case, the RTC rendered its Decision<sup>[26]</sup> on 15 July 2005. The decretal portion of the judgment of conviction disposes as follows:

ACCORDINGLY, in view of the foregoing, judgment is hereby rendered finding the accused Jinggoy Mateo y Rodriguez GUILTY beyond reasonable doubt of violating Section 5 of R.A. 9165 as charged and he is hereby sentenced to suffer a jail term of Life Imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The drug involved in this case is hereby ordered transmitted to the PDEA, thru DDB for proper disposition.<sup>[27]</sup>

The RTC gave scant merit to defendant-appellant's alibi and concluded that his arrest was for a legal cause. It theorized that if credence be given to defendant-appellant's version, his neighbor and witness, Marichu Ramos, who was also in a similar situation, should also have been indiscriminately arrested. The RTC found no reason to attribute ill motive on the part of the arresting police officers in light of the fact that the crime scene was in an area that was well-lighted, with people passing by the area, and with a close witness beside them, such as defendant-appellant's neighbor. The RTC further underscored that defendant-appellant's arrest was previously reported to the Philippine Drug Enforcement Agency (PDEA). It was also established that defendant was brought to the inquest fiscal a day after his detention, and no allegation whatsoever was shown that the police officers arrested defendant-appellant for the purpose of extortion.

Dissatisfied, defendant-appellant appealed to the Court of Appeals, which affirmed the ruling of the RTC. Hence, in a Decision dated 15 February 2007, the appellate court decreed:

WHEREFORE, finding no error in the judgment appealed from, the Court hereby AFFIRMS the same.<sup>[28]</sup>

The Court of Appeals, finding that no decisive facts or circumstances were overlooked by the court *a quo*, accorded great respect to the factual findings of the RTC. In the same manner, the Court of Appeals struck down defendant-appellant's defense of denial and alibi, contending that the same cannot prevail over the positive identification by the poseur-buyer PO2 Ortiz. Moreover, the appellate court found no convincing evidence that the police officers were wrongfully motivated, nor were they shown not to have been properly performing their duties when they conducted the buy-bust operation. Given such findings, the Court of Appeals relied on the presumption of regularity in the performance of official duty, and affirmed defendant-appellant's conviction.

From the above Decision, defendant-appellant filed an Appeal with this Court. The records of this case were thereby forwarded by the Court of Appeals pursuant to its Resolution dated 7 June 2007, giving due course to defendant-appellant's Notice of Appeal.<sup>[29]</sup>

In the instant Appeal, defendant-appellant assigns the following errors, to wit:

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THE COURT OF APPEALS GRAVELY ERRED IN PRONOUNCING THE GUILT OF THE [DEFENDANT]-APPELLANT NOTWITHSTANDING THE ARRESTING OFFICERS' PATENT NON-COMPLIANCE WITH THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS UNDER R.A. NO. 9165.

THE COURT OF APPEALS GRAVELY ERRED IN PRONOUNCING THE GUILT OF THE [DEFENDANT]-APPELLANT NOTWITHSTANDING THE FAILURE OF THE ARRESTING OFFICERS TO PRESERVE THE INTEGRITY AND EVIDENTIARY VALUE OF THE SEIZED DANGEROUS DRUG.<sup>[30]</sup>

Defendant-appellant argues mainly that the arresting officers failed to comply with the requirements for the proper custody of the seized dangerous drugs under Section 21<sup>[31]</sup> of Republic Act No. 9165. According to defendant-appellant, the arresting team should have conducted a physical inventory of the items seized and taken a photograph thereof in the presence of the accused, a representative each from the media and the Department of Justice, and any elected public official who shall further be required to sign copies of the said inventory. It is further claimed that the arresting officers failed to preserve the integrity and evidentiary value of the seized dangerous drug in accordance with the law by leaving the plastic sachet unprotected and susceptible to tampering during the course of its transfer from the scene of the crime to the police headquarters.

The Appeal is without merit.

Initially, it is best to emphasize that defendant-appellant's defense of alleged non-compliance by the arresting officers with Section 21 of Republic Act No. 9165 was raised belatedly and for the first time on appeal. This is not the first time that this Court has encountered an issue like the one in the instant case. Recently, in *People v. Norberto del Monte y Gapay @ Obet*,<sup>[32]</sup> this Court ruled that non-compliance with Section 21 would not render an accused's arrest illegal or the items seized/confiscated from him inadmissible.<sup>[33]</sup> This Court succinctly pronounced:

We would like to add that non-compliance with Section 21 of said law, particularly the making of the inventory and the photographing of the drugs confiscated and/or seized, will not render the drugs inadmissible in evidence. Under Section 3 of Rule 128 of the Rules of Court, evidence is admissible when it is relevant to the issue and is *not excluded by the law or these rules*. For evidence to be inadmissible, there should be a law or rule which forbids its reception. If there is no such law or rule, the evidence must be admitted subject only to the evidentiary weight that will [be] accorded it by the courts. One example is that provided in Section 31 of Rule 132 of the Rules of Court wherein a party producing a document as genuine which has been altered and appears to be altered after its execution, in a part material to the question in dispute, must account for the alteration. His failure do so shall make the document inadmissible in evidence. This is clearly provided for in the rules.<sup>[34]</sup>

The rule was similarly laid down in *People v. Pringas*,<sup>[35]</sup> in which this Court had the occasion to rule on the same issue, thus:

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. 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.<sup>[36]</sup>

In the case at bar, the records are unclouded that the integrity and the evidentiary value of the drug items seized from defendant-appellant during the buy-bust operation were properly preserved and safeguarded. The specimen was adequately marked, and then dispatched to the Crime Laboratory for the requisite Chemistry Report conducted by Forensic Chemist Engr. Leonard Jabonillo. What is even more telling is the fact that accused-appellant was not shown to have challenged the custody or the issue of disposition and preservation of the subject drug before the RTC. And neither did he raise objections before the Court of Appeals. Accused-appellant cannot be allowed too late in the day to question the integrity and evidentiary value of the seized items.<sup>[37]</sup> Thus, in *People v. Sta. Maria*,<sup>[38]</sup> this Court underscored the rule that objection to the admissibility of evidence raised for the first time on appeal cannot be considered:

Indeed, the police officers' alleged violations of Sections 21 and 86 of Republic Act No. 9165 were not raised before the trial court but were instead raised 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.<sup>[39]</sup>

As can be gleaned from the foregoing, the Court in *Pringas* alluded to Section 21(a)<sup>[40]</sup> of the Implementing Rules and Regulations of Republic Act No. 9165, declaring that non-compliance with the requirements under justifiable grounds shall not render void and invalid such seizures and custody of said items, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team. In this case, it must be stressed that defendant-appellant even stipulated<sup>[41]</sup> that a qualitative examination made by the Philippine National Police Crime Laboratory, Central Police District Crime Laboratory Office on the subject specimen, which was sealed in a transparent plastic sachet marked with the initials of PO2 Ortiz, yielded positive for methylamphetamine hydrochloride, a dangerous drug.<sup>[42]</sup> The

question, therefore, of the integrity and the evidentiary value of the items taken from the defendant-appellant has been laid to rest. Moreover, from the time the illegal drug was seized from the person of defendant-appellant until the time the chemical examination was conducted thereon, its integrity was preserved. It was not shown to have been contaminated in any manner. Its identity, quantity and quality remained untarnished, and was sufficiently established.

At this juncture, it is best to emphasize that prosecutions involving illegal drugs depend largely on the credibility of the police officers who conducted the buy-bust operation,<sup>[43]</sup> under these circumstances, the Court relies on the rule that the weighing of evidence, particularly conflicts in the testimonies of witnesses, is best left to the discretion of the trial court, which had the best opportunity to observe their demeanor, conduct and manner while testifying.<sup>[44]</sup> Such an opportunity is denied to the appellate courts.<sup>[45]</sup> For this reason, the trial court's findings are accorded finality, unless there appears on the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the results of the case.<sup>[46]</sup> When this Court is asked to go over the evidence presented by the parties and to analyze, assess and weigh the same to ascertain if the trial court, as affirmed by the appellate court, was correct in according superior credit to this or that piece of evidence and, eventually, to the totality of the evidence of one party or the other, the Court will not do the same.<sup>[47]</sup> When the trial court's factual findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon the Court.<sup>[48]</sup> In the instant case, we find no compelling reason to reverse the findings of the RTC, as affirmed by the Court of Appeals. We do so for the following critical points:

*First*, all the necessary elements for the prosecution of the illegal sale of drugs were established. The elements are the following: (1) the identities of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>[49]</sup> It is beyond reasonable doubt that the transaction actually took place, as ruled by the trial court and affirmed by the appellate court. Prosecution witness PO2 Ortiz narrated that he was introduced by the informant to defendant-appellant as a buyer of *shabu*. PO2 Ortiz then told defendant-appellant that he was going to buy *shabu* worth P200.00. PO2 Ortiz was then handed a small plastic sachet containing the prohibited drug. After his receipt of the item, he handed defendant-appellant the money. PO2 Ortiz then gave the pre-arranged signal and introduced himself to defendant-appellant as a police officer. Following the pre-arranged signal, the rest of the team rushed to the scene. Thus:

FIS. ARAULA:

Q. What happened when you, together with your informant were able to see the subject of yours, what happened?

WITNESS:

A. The informant introduced me and said I was going to buy the *shabu*?

FIS. ARAULA:

Q. If that subject is in the courtroom can you identify that person?

WITNESS:

A. Yes, sir.

FIS. ARAULA:

Q. Will you please stand up and touch the shoulder of the accused, Mr.

Witness?

WITNESS:

A. This one, your Honor.

INTERPRETER:

Witnessed tapped the shoulder of a person inside the courtroom when asked answered by the name of Jinggoy Mateo y Rodriguez.

FIS ARAULA:

Q. Now after your informant told Mateo, the accused in this case that you are interested in buying illegal drug what was the response of the accused in this case?

WITNESS:

A. I told him that I was going to buy *shabu* worth of Two Hundred Pesos, sir.

FIS. ARAULA:

Q. What was his answer?

WITNESS:

A. He said, "*Sige bibili ka.*"

FIS. ARAULA:

Q. When he said "*Sige*" what did he do, if any?

WITNESS:

A. He gave me a small plastic sachet.

FIS. ARAULA:

Q. How about you, what did you give to him?

WITNESS:

A. I gave him the money after I received the sachet.

FIS. ARAULA:

Q. In other words, Mr. Witness you received first the illegal drug and gave the two hundred pesos to him?

WITNESS:

[A.] Yes, sir.

FIS. ARAULA:

Q. By the way was there any other person present at that time aside from the accused Jinggoy Mateo y Rodriguez and the informant with you?

WITNESS:

A. Only three (3) of us, sir.

FIS. ARAULA:

Q. When you gave that money to the accused Jinggoy Mateo, where the informant at that time?

WITNESS:

A. He was beside me, sir.

FIS. ARAULA:

Q. After giving the money and receiving the shabu from the accused in this case what happened next?

WITNESS:

A. I gave my pre-arranged signal.

FIS. ARAULA:

[Q.] What was the pre-arrange[d] signal?

WITNESS:

A. I light (sic) up a cigarette, sir.

FIS. ARAULA:

Q. What do you mean by lighting that cigarette?

WITNESS:

A. That I have bought *shabu*, sir.

FIS. ARAULA:

Q. Now after that what happened after you made the pre-arranged signal?

WITNESS:

A. I got hold [of] Jinggoy Mateo and introduced myself as [a] policeman.

FIS. ARAULA:

Q. What was the reaction of the accused when you got hold of him at that time?

WITNESS:

A. He was surprised.

FIS. ARAULA:

Q. How about the other police officer[s], where were they [?]

WITNESS:

A. They rushed [to] our place, sir.<sup>[50]</sup>

Indeed, there is no gainsaying that defendant-appellant was caught *in flagrante delicto*. He was positively identified. Defendant-appellant was the seller of the object seized from him, which item was later shown to be methylamphetamine hydrochloride, otherwise known as *shabu*. This fact was confirmed by Chemistry Report No. D-069-2003. This was further established in the Certification, dated 14 January 2003, issued by Forensic Analyst Engr. Leonard M. Jabonillo, declaring that he conducted Forensic Laboratory Examination on the specimen confiscated from defendant-appellant, which gave positive results for methylamphetamine hydrochloride. Finally, as aptly considered by the Court of Appeals, the identity of the prohibited drug, which constitutes the *corpus delicti*, was also shown by the Request for Laboratory Examination, dated 14 January 2003, from the District Drug Enforcement Group of Camp Karingal for "one (1) small heat-sealed transparent plastic sachet containing a white crystalline substance suspected to be *shabu* with marking/s 'JO-JM-S.'"<sup>[51]</sup>

*Second*, the presumption that the public officers performed their duties regularly during the buy-bust operation was not overturned. Restated, the rule is that the testimonies of police officers involved in a buy-bust operation deserve full faith and credit, given the presumption that they have performed their duties regularly.<sup>[52]</sup> This presumption can be overturned if clear and convincing evidence is presented to prove either of two things: (1) that they were not properly performing their duty, or (2) that they were inspired by any improper motive.<sup>[53]</sup> In this case, appellant failed to present said evidence.

The Court of Appeals was without error when it upheld the ruling of the RTC declaring valid the buy-bust operation conducted against defendant-appellant. Jurisprudence has established that a buy-bust operation is a form of entrapment,<sup>[54]</sup> in which the violator is caught *in flagrante delicto* and the police officers conducting the operation are not only authorized but duty-bound to apprehend the violator and to search him for anything that may have been part of or used in the commission of the crime.<sup>[55]</sup>

The arresting officers were not shown not to have properly performed their duty. Neither was it established that they had been impelled by any improper motive. We are in accord with the Court of Appeals that nowhere was it shown or even imputed that the arrest of defendant-appellant was made in an effort to extort from him.

Section 5, Article II of Republic Act No. 9165 penalizes the sale of *shabu*, to wit:

*SEC. 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.

For selling 0.20 gram of methylamphetamine hydrochloride to PO2 Ortiz, we find that the trial court, as affirmed by the Court of Appeals, correctly imposed the penalty of life imprisonment. We also find the fine of P500,000.00 imposed on defendant-appellant to be in accordance with law.

**WHEREFORE**, the instant Appeal is **DENIED**. The Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01290, dated 15 February 2007, sustaining the conviction of defendant-

appellant Jinggoy Mateo y Rodriquez, for violation of Section 5, Article II of Republic Act No. 9165 is hereby **AFFIRMED**. No costs.

**SO ORDERED.**

*Ynares-Santiago, (Chairperson), Austria-Martinez, Reyes, and Leonardo-De Castro, JJ., concur.*

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\* Justice Teresita J. Leonardo-De Castro was designated to sit as additional member replacing Justice Antonio Eduardo B. Nachura per Raffle dated 25 June 2008.

[1] Records, p. 1.

[2] SEC. 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.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to five hundred thousand pesos (P500,000.00) 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 controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[3] Records, p. 1.

[4] Id. at 20.

[5] TSN, 9 March 2004, p. 4.

[6] Id. at 9.

[7] Id. at 10-11.

[8] Id. at 20.

[9] Id. at 11.

[10] Id. at 12.

[11] TSN, 24 June 2004, p. 3.

[12] Id. at 9.

[13] Id. at 11.

[14] Id. at 5.

[15] Id.

[16] Id. at 6.

[17] Id. at 14.

[18] Id. at 15.

[19] Id. at 13.

[20] Id. at 14.

[21] TSN, 17 February 2005, p. 10.

[22] Id. at 4.

[23] Id. at 6.

[24] Chemistry Report No. D-069-2003 as filed by Engr. Leonard M. Jabonillo (Philippine National Police Crime Laboratory, Central Police District Crime Laboratory Office) on the specimen submitted: A- one (1) heat-sealed transparent plastic sachet with markings "JO-JM-S" containing 0.20 gm of white crystalline substance, yielded, thus:

x x x x

#### FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the test for Methylamphetamine Hydrochloride, a dangerous drug. (Records, p. 6.)

[25] Id. at 39.

[26] Penned by Presiding Judge Jaime N. Salazar, Jr.; id. at 76-78.

[27] Id. at 78.

[28] CA *rollo*, p. 93.

[29] In accordance with Sec. 13, Rule 124 of the Amended Rules to Govern Review of Death Penalty Cases (A.M. No. 00-5-03-SC), as the penalty of life imprisonment is involved in this case.

[30] *Rollo*, p. 24.

[31] 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.

[32] G.R No. 179940, 23 April 2008.

[33] Id.

[34] Id.

[35] G.R. No. 175928, 31 August 2007, 531 SCRA 828.

[36] Id. at 841-843.

[37] *Arwood Industries, Inc. v. D.M. Consunji, Inc.*, 442 Phil. 203, 215 (2002).

[38] G.R. No. 171019, 23 February 2007, 516 SCRA 621.

[39] Id. at 633-634.

[40] Section 21 (a) of the Implementing Rules and Regulations of Republic Act 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 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 so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(a) The apprehending officer/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, that the physical inventory and photograph

[41] Records, p. 39.

[42] Id. at 6.

[43] *People v. Chang*, 382 Phil. 669, 695 (2000).

[44] Id.; *People v. Belga*, 402 Phil. 734, 742-743 (2001); *People v. Natividad*, 405 Phil. 312, 329 (2001).

[45] *People v. Suarez*, G.R. No. 153573-76, 15 April 2005, 456 SCRA 333, 345.

[46] Id.

[47] *Rendon v. People*, G.R. No. 127089, 19 November 2004, 443 SCRA 142, 147-148.

[48] *People v. Castillo*, G.R. No. 118912, 28 May 2004, 430 SCRA 40, 50.

[49] *People v. Montano*, 392 Phil. 378, 390-391 (2000); *People v. Santos*, 442 Phil. 316, 415 (2002); *People v. Adam*, 459 Phil. 676, 684 (2003).

[50] TSN, 9 March 2004, pp. 8-11.

[51] Exhibit A, Records, p. 5.

[52] *People v. Padasin*, 445 Phil. 448, 455-456 (2003).

[53] Id. at 456.

[54] *People v. Ong*, G.R. No. 137348, 21 June 2004, 432 SCRA 470, 484.

[55] *People v. Juatan*, 329 Phil. 331, 337-338 (1996).