

795 Phil. 468

FIRST DIVISION

[G.R. No. 218891. September 19, 2016]

EDMUND BULAITAN Y MAUAYAN,* PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated March 26, 2015 and the Resolution^[3] dated June 17, 2015 of the Court of Appeals (CA) in CA-G.R. CR No. 36117, which affirmed the Decision^[4] dated September 20, 2013 of the Regional Trial Court of Tuguegarao City, Cagayan, Branch 5 (RTC) in Criminal Case No. 10086, finding petitioner Edmund Bulaitan y Mauayan (Bulaitan) guilty beyond reasonable doubt, for violating Section 11, Article II of Republic Act No. (RA) 9165,^[5] otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Facts

The instant case stemmed from an Information^[6] dated November 7, 2003 filed before the RTC, charging Bulaitan of illegal possession of dangerous drugs, defined and penalized under Section 11, Article II of RA 9165,^[7] the accusatory portion of which reads:

That on or about October 03, 2003, in the Municipality of Solana, Province of Cagayan and within the jurisdiction of this Honorable Court, the said accused, [Bulaitan], without authority, did then and there willfully[,] unlawfully[,] and feloniously have in his possession and under his control and custody three (03) pieces of heat sealed plastic sachet containing Methamphetamine Hydrochloride, a dangerous drug commonly known as *shabu* which he kept inside his residence/dwelling at Centro Northeast, Solana, Cagayan weighing 0.22 grams

which dangerous drug was confiscated by elements of the PNP Solana, Cagayan which conducted a search at the residence/dwelling of the accused by virtue of Search Warrant No. 21 issued by Executive Judge, Honorable VILMA T[.] PAUIG of RTC Branch II, Tuguegarao City, Cagayan which resulted to the confiscation of the above-mentioned dangerous drug as the accused while in possession thereof do not have necessary permit and/or authority [sic].

CONTRARY TO LAW.^[8]

The prosecution alleged that on October 3, 2003, the Philippine National Police of Solana, Cagayan constituted a team headed by P/Insp. Kevin Bulayungan (P/Insp. Bulayungan) as leader, with SPO2 Lito Baccay (SPO2 Baccay) and PO3 Elizalde Tagal (PO3 Tagal) as search officer and investigator, respectively, to implement a search warrant issued by Executive Judge Vilma T. Pauig to search Bulaitan's residence. Before going to the target residence, the search team first went to the house of Barangay Chairman Jane Busilan, who in turn, assigned *Kagawad* (Kgd.) Jerry Soliva (Kgd. Soliva) and Kgd. Herald de Polonia (Kgd. Polonia) as search witnesses. Upon arriving at Bulaitan's residence, the search team was met by Bulaitan's two (2) children and housekeeper, who informed them that Bulaitan was not home. This notwithstanding, the search team explained to the children and housekeeper the reason for their presence, prompting the latter to allow them inside the house and conduct the search. SPO2 Baccay then proceeded to Bulaitan's room and there, discovered three (3) heat-sealed plastic sachets containing white crystalline substance. Suspecting that the contents are *shabu*, the search team showed the sachets to the children and housekeeper and photographed the same. SPO2 Baccay then gave the sachets to P/Insp. Bulayungan, who in turn, handed them over to PO3 Tagal who wrapped the confiscated items with a piece of paper for transport to the Solana PNP Station. When Bulaitan arrived at his residence, the search team effected his arrest and took him to the police station with the seized sachets. Upon arrival thereat, PO3 Tagal prepared the police blotter and request for laboratory examination, marked the sachets with his initials, and delivered the same to forensic chemist S/Insp. Myrna Madriaga Tulauan of the PNP Crime Laboratory. A qualitative examination revealed that the three (3) plastic sachets contained an aggregate of 0.22 gram of *shabu*.^[9]

In his defense, Bulaitan denied owning the sachets allegedly recovered by the search team in his house. He narrated that in the morning of the fateful day, he went with his wife to Tuguegarao City to tend to their meat shop. He eventually received a call from his daughter,

Maria Bulaitan (Maria), informing him that policemen are in their house and conducting a search therein, prompting him to immediately go home. Upon reaching his house, the policemen informed him that they recovered *shabu* from his room, and thus, arrested him. Finally, Bulaitan averred that Joseph Juan - the person who executed the affidavit in support of the application for search warrant — wanted to get even with him as his wife testified against Juan in a theft case. Upon arraignment, Bulaitan pleaded not guilty to the charges against him.^[10]

The RTC Ruling

In a Decision^[11] dated September 20, 2013, the RTC found Bulaitan guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced him to suffer the penalty of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, two (2) months, and one (1) day, as maximum, and to pay a fine in the amount of P300,000.00.^[12]

The RTC found that Bulaitan constructively possessed the sachets containing *shabu* as they were found inside his house where he exercised dominion and control. In this relation, the RTC opined that the policemen must be accorded the presumption of regularity in the performance of their official duties, especially in the absence of any evidence from Bulaitan to show otherwise.^[13]

Aggrieved, Bulaitan elevated his conviction before the CA.

The CA Ruling

In a Decision^[14] dated March 26, 2015, the CA affirmed Bulaitan's conviction. It held that all the elements of illegal possession of dangerous drugs are present, considering that Bulaitan without any authority constructively possessed the seized sachets containing *shabu* as they were found inside his house. The CA further held that the prosecution had established an unbroken chain, of custody of the seized sachets. Finally, the CA ruled that the search which yielded the seized sachets was properly implemented as it was done in the presence of Bulaitan's two (2) children and housekeeper.^[15]

Aggrieved, Bulaitan moved for reconsideration which the CA denied in a Resolution^[16] dated June 17, 2015; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not Bulautitan's conviction for illegal possession of dangerous drugs, defined and penalized under Section 11, Article II of RA 9165, should be upheld.

The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.^[17]

In this light and as will be explained hereunder, the Court is of the view that Bulautitan's conviction must be set aside.

Section 2,^[18] Article III of the 1987 Constitution mandates that **a search and seizure must be carried out through or on the strength of a judicial warrant predicated upon the existence of probable cause, absent which such search and seizure becomes "unreasonable" within the meaning of the said constitutional provision.** To protect the people from unreasonable searches and seizures, Section 3 (2),^[19] Article III of the 1987 Constitution provides that **evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding.** In other words, evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree.^[20]

It must, however, be clarified that a search warrant^[21] issued in accordance with the provisions of the Revised Rules of Criminal Procedure does not give the authorities limitless discretion in implementing the same as the same Rules provide parameters in the proper conduct of a search. Section 8, Rule 126 of the aforesaid Rules, states that:

SEC. 8. *Search of house, room, or premises to be made in presence of two witnesses.* — No search of a house, room or any other premises shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality.

Under this provision, a search under the strength of a warrant is required to be witnessed by the lawful occupant of the premises sought to be searched. It must be stressed **that it is only upon their absence** that their presence may be replaced by two (2) persons of sufficient age and discretion residing in the same locality. In *People v. Go*,^[22] the Court held that a departure from the said mandatory rule - by preventing the lawful occupant or a member of his family from actually witnessing the search and choosing two (2) other witnesses observe the search - violates the spirit and letter of the law, and thus, taints the search with the vice of unreasonableness, rendering the seized articles inadmissible due to the application of the exclusionary rule, *viz.*:

As pointed out earlier, the members of the raiding team categorically admitted that the search of the upper floor, which allegedly resulted in the recovery of the plastic bag containing the *shabu*, did not take place in the presence of either the lawful occupant of the premises, *i.e.* appellant (who was out), or his son Jack Go (who was handcuffed to a chair on the ground floor). **Such a procedure, whereby the witnesses prescribed by law are prevented from actually observing and monitoring the search of the premises, violates both the spirit and letter of the law:**

X X X X

That the raiding party summoned two *barangay kagawads* to witness the search at the second floor is of no moment. **The Rules of Court clearly and explicitly establishes a hierarchy among the witnesses in whose presence the search of the premises must be conducted. Thus, Section 8, Rule 126 provides that the search should be witnessed by “two witnesses of sufficient age and discretion residing in the same locality” only in the absence of either the lawful occupant of the premises or any member of his family.** Thus, the search of appellant’s residence clearly should have been witnessed by his son Jack Go who was present at the time. The police officers

were without discretion to substitute their choice of witnesses for those prescribed by the law.

X X X X

The raiding team's departure from the procedure mandated by Section 8, Rule 126 of the Rules of Court, taken together with the numerous other irregularities attending the search of appellant's residence, tainted the search with the vice of unreasonableness, thus compelling this Court to apply the exclusionary rule and declare the seized articles inadmissible in evidence. This must necessarily be so since it is this Court's solemn duty to be ever watchful for the constitutional rights of the people, and against any stealthy encroachments thereon. In the oft-quoted language of Judge Learned Hand:

As we understand it, the reason for the exclusion of evidence competent as such, which has been unlawfully acquired, is that exclusion is the only practical way of enforcing the constitutional privilege. In earlier times the action of trespass against the offending official may have been protection enough; but that is true no longer. Only in case the prosecution which itself controls the seizing officials, knows that it cannot profit by their wrong, will that wrong be repressed.^[23] (Emphases and underscoring supplied)

In *People v. Del Castillo*,^[24] the Court similarly held that the search of the premises must be witnessed by the lawful occupant or the family members; otherwise, the search become unreasonable, thus rendering the seized items inadmissible under the exclusionary rule.

In this case, a judicious perusal of the records reveals that the policemen involved in the search of Bulaitan's residence — as shown in their own testimonies - **did not** conduct the search in accordance with Section 8, Rule 126 of the Revised Rules of Criminal Procedure.

In his testimony, P/Insp. Bulayungan was adamant that Bulaitan was present when the search was commenced, to wit:

[Asst. Pros. Frederick D. Aquino (Pros. Aquino)]: **And was [Bulaitan] then present when you implemented the search warrant?**

[P/Insp. Bulayungan]: **Yes, sir.**

x x x x

[Pros. Aquino]: **So after showing to the accused a copy of the search warrant, what did the members of your team do, if any?**

[P/Insp. Bulayungan]: **We conducted an orderly search at the residence of the accused I Bulaitan], sir.**

x x x

[Atty. Rolando C. Acacio (Atty. Acacio)] So you mean to say that [Bulaitan] was not present when you went to implement the search warrant?

[P/Insp. Bulayungan]: He was present, sir.

[Atty. Acacio]: At what point in time was he present Mr. Witness?

[P/Insp. Bulayungan]: **When we introduced ourselves as policemen and tell our purpose of being there, [Bulaitan] arrived, sir.**

x x x x

[Atty. Acacio]: But at that time that there was a sort of reluctance you know for a fact that the accused was not in their house?

[P/Insp. Bulayungan]: **He was there already, sir.**

[Atty. Acacio]: He was there?

[P/Insp. Bulayungan]: **Yes sir because before we enter the house, that is the time that [Bulaitan] was already there after we introduced ourselves as police officers and tell our purpose of being there** [sic].^[25] (Emphases and underscoring supplied)

However P/Insp. Bulayungan's testimony was belied by that of another member of the

search team, PO3 Tagal, who testified that Bulaitan was not in the premises when they conducted the search:

[Asst. Pros. Maita Grace Deray-Israel (Pros. Israel)]: And what happened when you reached the residence of [Bulaitan]

[PO3 Tagal]: **The house helper met us together with the two (2) children of [Bulaitan] and we asked them where is [Bulaitan] and they answered us that [Bulaitan] was out of his house and he is in Tuguegarao City, Ma'am.**

x x x x

[Pros. Israel]: And what happened when you arrived in the house of [Bulaitan]?

[PO3 Tagal]: **I asked our team leader [P/Insp. Bulayungan] if we continue [sic] to search the house of [Bulaitan] considering that the owner of the house is not around, Ma'am.**

x x x x

[Pros. Israel]: And what is the reply of this [P/Insp. Bulayungan]?

[PO3 Tagal]: **He said that we will continue, Ma'am.**

x x x x

[Pros. Israel]: Alright, Mr. Witness, after you have presented that search warrant to the two (2) children of [Bulaitan], what happened next, if any?

[PO3 Tagal]: We requested them to open the door of their house, Ma'am.

[Pros. Israel]: And they accede [sic]?

[PO3 Tagal]: Yes, Ma'am.

[Pros. Israel]: And after they have opened the door of their house, what happened next?

[PO3 Tagal]: **Then we explained to them what is our subject and we**

requested them to follow us inside the room of [Bulaitan] together with the two (2) Barangay kagawads, Ma'am.^[26]

x x x (Emphases and underscoring supplied)

While Bulaitan's absence in the search, *per se*, did not violate Section 8, Rule 126 of the 2000 Rules on Criminal Procedure, the search team committed other errors which led to such violation. For instance, Bulaitan's daughter, Maria, was effectively precluded from witnessing the search conducted by SPO2 Baccay in Bulaitan's room as PO3 Tagal kept her in the living room by searching the area and asking her a lot of questions. Maria's testimony states:

[Atty. Acacio]: And who were with you then at the house at that time?

[Maria]: I was alone, sir.

x x x x

[Atty. Acacio]: And when [the police officers] asked you the whereabouts of your father what did you tell them?

[Maria]: I told them that they were in Tuguegarao selling, sir.

[Atty. Acacio]: And then when you told them that your father is in Tuguegarao selling, what did the policemen do?

[Maria]: They said that they have a search warrant against my father, sir.

x x x x

[Atty. Acacio]: When the policemen told you that there is a search warrant for your father, what did they do?

[Maria]: I was not supposed to let them enter the house because my father was not around but they said that they will still enter because they have a search warrant for my father otherwise they will force to open the door, sir [sic].

x x x x

[Atty. Acacio]: And what did you do when they told you that even without your father we still have to search the house?

[Maria]: I let them entered [sic] the house, sir.

x x x x

[Atty. Acacio]: When these three policemen were allowed access in the house by you, what did they do?

[Maria]: When they were at the receiving room [SPO2 Baccay] read the contents of the search warrant and asked me and to confirm the room of my father, sir.

[Atty. Acacio]: And when [SPO2 Baccay] did that, what did you do?

[Maria]: I told them that this is the room of my father, sir.

[Atty. Acacio]: And after confirming that indeed that is the room of your father, what did they do?

[Maria]: **[SPO2 Baccay] and the other policemen went inside the room while [PO3 Tagal] was left at the receiving room, sir.**

[Atty. Acacio]: Now, what was [PO3 Tagal] doing when he stayed in the *sala* or receiving room?

[Maria]: **He was searching our belongings and at the same time inquiring from me, sir.**

x x x x

[Atty. Acacio]: Now, when you were in the *sala* were you able to observe what was happening inside the room of your parents?

[Maria]: **No, sir.**

[Atty. Acacio]: And why can't you see what was happening inside the room of your parents?

[Maria]: **Because the door of the room was then half closed, sir.**^[27]

(Emphases and underscoring supplied)

Maria's direct testimony was further bolstered by her consistency during cross examination, to wit:

[Pros. Ronnel B. Nicolas (Pros. Nicolas)]: In other words, madam witness, you confirm that when the policemen conducted a search, the search was conducted in the presence of these two barangay councilmen?

[Maria]: **Yes they were present but they were outside the house, sir.**

x x x

[Pros. Nicolas]: You also made mention madam witness that when the search was being conducted one of the policemen remained in the *sala* and conducted search therein, is it not?

[Maria]: Yes, sir.

[Pros. Nicolas]: And in fact you were present at the time the policemen conducting a search in the *sala*? [sic]

[Maria]: Yes, sir.

[Pros. Nicolas]: You also made mention madam witness that two policemen conducted search inside the room of your father, is it not? [sic]

[Maria]: Yes, sir.

[Pros. Nicolas]: And you also made mention that you were not able to actually see them searching because the door leading to the room of your father was half closed, is it not?

[Maria]: Yes, sir.

[Pros. Nicolas]: And of course you just opted to stay in the *sala* even you had the opportunity to enter the room of 3 our parents if you chose it, is it not? [sic]

[Maria]: **Because while [PO3 Tagall] was conducting search he had so**

many questions that I need to answer, sir. [sic]

[Pros. Nicolas]: And definitely madam witness nobody prevented you to enter the room of your father at the time the policemen conducted the search inside the room of your parents?

[Maria]: **I was supposed to go with [SPO2 Baccay] inside the room of my parents but [PO3 Tagal] talked to me so we remained in the sala (receiving room), sir.**^[28] (Emphases and underscoring supplied)

Worse, the search team even instructed Maria to contact her father *via* telephone, which she could only do by leaving their residence and going to the house of a certain Dr. Romeo Bago (Dr. Bago) to use the telephone therein. It was only after her return to their residence that SPO2 Baccay announced that they have allegedly found *shabu* in Bulautan's room:

[Atty. Acacio]: Now, what did you do when they told you that you contact your father [through] telephone?

[Maria]: **I left our house and went to the house of [Dr. Bago], sir.**

x x x x

[Atty. Acacio]: And what happened when you were able to contact the phone number at the stall of your father?

[Maria]: When the call rang the owner of the phone and then she let me waited and I was able to talk to my mother, sir [sic].

[Atty. Acacio]: And what did you tell your mother?

[Maria]: When I was able to talk to my mother I told her to let my father to go home because policemen were there inside the house, sir [sic].

x x x x

[Atty. Acacio]: And what happened when you went home?

[Maria]: When I was able to reach our house I saw [PO3 Tagal] and he asked

from me if I was able to contact my father, sir.

[Atty. Acacio]: And what did you tell him?

[Maria]: I told him that I was able to talk to my mother and she will ask my father to go home, sir.

[Atty. Acacio]: And after telling that to [PO3 Tagal] what happened next?

[Maria]: [PO3 Tagal] told to [SPO2 Baccay] to enter inside and then we went inside the house, sir. [sic]

[Atty. Acacio]: And when you entered to the house, what happened next? [sic]

[Maria]: **When we reached the receiving room, [SPO2 Baccay] said that they found something, sir.**

[Atty. Acacio]: And where was [SPO2 Baccay] when he made that announcement that he found something?

[Maria]: **He was inside the room, sir.**

[Atty. Acacio]: And at that time where were you?

[Maria]: **I was at the receiving room, sir.**

x x x x

[Atty. Acacio]: And did your father finally arrive?

[Maria]: Yes, sir.

[Atty. Acacio]: Where were you when your father arrived?

[Maria]: I was outside of our house, sir.^[29] (Emphases and underscoring supplied)

The foregoing statements were corroborated by Kgd. Soliva's testimony, which essentially stated that: (a) Bulaitan was not present when the search was conducted; (b) Maria wasn't able to witness the conduct of such search; and (c) even he and Kgd. Polonia - the two (2) witnesses designated by the barangay chairman - did not witness the search as they

remained outside Bulaitan's residence:

[Atty. Acacio]: And what happened when you reached the house of [Bulaitan]?

[Kgd. Soliva]: They [the police officers and the PDEA agents] knocked at the door of the house of [Bulaitan] and the door was opened by the daughter of [Bulaitan], sir.

x x x x

[Atty. Acacio]: And what was the response of the daughter of [Bulaitan] when asked as to his whereabouts?

[Kgd. Soliva]: She answered that they were at the public market, sir.

[Atty. Acacio]: And after that, what happened next?

[Kgd. Soliva]: **They sent the daughter to contact her father, sir.**

x x x x

[Atty. Acacio]: While the members of the police and the PDEA were inside the house of [Bulaitan], what transpired thereafter, if any?

x x x x

[Kgd. Soliva]: I was surprised when they said that they seized *shabu* inside the house, sir.

x x x x

[Court]: **When the PDEA and the police operatives conducted a search, you were outside?**

[Kgd. Soliva]: **Yes, your Honor.**

[Court]: And when the police authorities were able to find what they were looking for you did not see how they find [sic] it?

[Kgd. Soliva]: **No more your Honor because when I saw them they were**

already holding the seized item.

[Court]: And then the first time you saw the seized item, was that when you enter [sic] the house after they were already seized, is that right?

[Kgd. Soliva]: Yes, your Honor.

x x x x

Q: And when you entered the house for the first time after you heard that something was seized inside the house, did you see already [Bulaitan] inside the house?

[Kgd. Soliva]: **No, your honor.**

x x x x

[Atty. Acacio]: After you got out of the house together with the members of the police and the PDEA and you went all outside of the house, did you see [Bulaitan]?

x x x x

[Kgd. Soliva]: No, sir.^[30] (Emphases and underscoring supplied)

The testimonies given in the case at bar ultimately prove that: (a) Bulaitan was not in his residence when the search was conducted; (b) his daughter, Maria, was not able to witness SPO2 Baccay's search of Bulaitan's room as PO3 Tagal kept her in the living room and even instructed her to leave the house to contact her parents; and (c) Kgd. Soliva and Kgd. Polonia neither witnessed the search as they remained outside Bulaitan's residence. Accordingly, the search conducted therein by the search team fell way below the standard mandated by Section 8, Rule 126 of the Revised Rules of Criminal Procedure, and thus deemed unreasonable within the purview of the exclusionary rule of the 1987 Constitution. As a consequence, the three (3) plastic sachets containing an aggregate amount of 0.22 gram of *shabu* recovered therefrom are inadmissible in evidence for being the proverbial fruit of the poisonous tree. Since the confiscated *shabu* is the very *corpus delicti* of the crime charged,^[31] Bulaitan must necessarily be acquitted and exonerated from all criminal liability.

As a final note, it is fitting to mention that “[t]he Court strongly supports the campaign of the government against drug addiction and commends the efforts of our law enforcement officers against those who would inflict this malediction upon our people, especially the susceptible youth. But as demanding as this campaign may be, it cannot be more so than the compulsions of the Bill of Rights for the protection of liberty of every individual in the realm, including the basest of criminals. The Constitution covers with the mantle of its protection the innocent and the guilty alike against any manner of high-handedness from the authorities, however praiseworthy their intentions. Those who are supposed to enforce the law are not justified in disregarding the right of the individual in the name of order. Order is too high a price for the loss of liberty. As Justice Holmes [once said,] x x x ‘I think it is less evil that some criminals should escape than that the government should play an ignoble part.’ It is simply not allowed in the free society to violate a law to enforce another, especially if the law violated is the Constitution itself.”^[32]

WHEREFORE, the appeal is **GRANTED**. The Decision dated March 26, 2015 and the Resolution dated June 17, 2015 of the Court of Appeals in CA-G.R. CR No. 36117 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Edmund Bulaitan y Mauayan is **ACQUITTED** of the crime charged.

SO ORDERED.

Sereno, C. J., (Chairperson), Leonardo-De Castro, Bersamin, and Caguioa, JJ., concur.

* “Mauanay” or “Mauwanay” in some parts of the records.

^[1] *Rollo*, pp. 3-24.

^[2] *Id.* at 26-40. Penned by Associate Justice Isaias P. Dicdican with Associate Justices Elihu A. Ybañez and Victoria Isabel A. Paredes concurring.

^[3] *Id.* at 62-63.

^[4] *Id.* at 42-48. Penned by Judge Jezarene C. Aquino.

^[5] Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, As AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

^[6] Records, pp. 1-2.

^[7] The pertinent portions of Section 11, Article II of RA 9165 reads:

Section 11. Possession of Dangerous Drugs. - The penalty of x x x shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug x x x regardless of the degree of purity thereof:

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

^[8] Records, p. 1.

^[9] *Rollo*, pp. 27-28. See also TSN, August 1, 2006, pp. 28-29 and 32-38.

^[10] *Id.* at 28-29. See also pp. 44-45.

^[11] *Id.* at 42-48.

^[12] *Id.* at 48.

^[13] *Id.* at 46-48.

^[14] *Id.* at 26-40.

^[15] *Id.* at 31-39.

^[16] *Id.* at 62-63.

^[17] See *People v. Comboy*, G.R. No. 218399, March 2, 2016, citing *Manansala v. People*, G.R. No. 215424, December 9, 2015.

^[18] Section 2, Article III of the 1987 Constitution states:

Section 2. The right of the people to be secure in their persons, houses, papers,

and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

^[19] Section 3 (2), Article III of the 1987 Constitution states:

Section 3. x x x.

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

^[20] See *People v. Manago*, G.R. No. 212340, August 17, 2016, citing *Comerciante v. People*, G.R. No. 205926, July 22, 2015, 763 SCRA 587, 594-595.

^[21] Section 1, Rule 126 of the Revised Rules of Criminal Procedure reads:

SECTION 1. Search warrant defined. — A search warrant is an order in writing issued in the name of the People of the Philippines, signed by a judge and directed to a peace officer, commanding him to search for personal property described therein and bring it before the court.

^[22] 457 Phil. 885 (2003).

^[23] *Id.* at 914-917, citations omitted.

^[24] 482 Phil. 828 (2004).

^[25] TSN, April 24, 2007, pp. 8, 11-13, 19-20, 27-30, and 37-38.

^[26] TSN, August 1, 2006, pp. 13-14 and 18-20.

^[27] TSN, August 18, 2009, pp. 4-6, 8, and 10-13.

^[28] TSN, August 18, 2009, pp. 25-27.

^[29] TSN August 18, 2009, pp. 14, 16-18, 22.

^[30] TSN, March 24, 2009, pp. 12-25.

^[31] See *Sindac v. People*, G.R. No. 220732, September 6, 2016. See also *People v. Sorin*, G.R. No. 212635, March 25, 2015, 754 SCRA 594, 610.

^[32] *People v. Go*, 457 Phil. 885, 925 (2003), citing *People v. Aminnudin*, 246 Phil. 424, 434-435 (1988).

Date created: November 22, 2018