

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR FLORES Y POLINTAN, ACCUSED-APPELLANT.

Ponente: DIAMANTE, FRANCHITO N., J.

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DIAMANTE, FRANCHITO N., J.:

Assailed before this Court is the September 12, 2013 Decision[1] of Angeles City Regional Trial Court (RTC), Branch 57, in Criminal Case No. DC 04-366, finding accused-appellant Edgar Flores Y Polintan ("Edgar" for brevity) guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act (R.A.) No. 9165.

An Appellant's Brief was filed on April 28, 2014 and the Appellee's Brief was subsequently filed on October 24, 2014. Accused-appellant Edgar's "Manifestation In Lieu of Reply Brief"[2] averring that, for reasons therein stated, he elected not to file a reply brief to the plaintiff-appellee's brief is hereby noted. In view thereof, the instant case is deemed submitted for decision.

The facts are as follows:

An Information dated November 10, 2004[3] for violation of Section 11, Article II of R.A. No. 9165 was filed against accused-appellant Edgar. The Information reads:

"That on or about the 8th day of November, 2004 in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority whatsoever, did then and there willfully, unlawfully and feloniously have in his possession and control two (2) pieces of small size heat sealed transparent plastic sachets each containing more or less ONE (1) GRAM OF SHABU or a total of TWO (2) GRAMS OF SHABU (Methamphetamine Hydrochloride), which is a dangerous drug, without authority whatsoever.

CONTRARY TO LAW."

When arraigned, accused-appellant Edgar, then assisted by his appointed counsel de officio, Atty. Joselito Castro, pleaded not guilty. Trial on the merits thereafter followed.

The evidence for the prosecution consisted of the testimony of PO3 Erickson Mendoza. In the Brief for the plaintiff-appellee,[4] the Solicitor General summarized the facts as follows:

"xxx xxx

2. On 8 November 2004, Police Officer 2 Victorino Chua (PO2 Chua) of the Angeles City Philippines National Police (PNP) Office City Drug Enforcement Unit (CDEU), received information from a confidential asset regarding the sale by a certain Dong and Edgar (the accused-appellant herein) of dangerous and prohibited drugs, particularly methamphetamine hydrochloride or "shabu", in Barangays Tabun and Capaya of Angeles City. PO2 Chua then promptly relayed the same to the Angeles City PNP Chief, C/Insp. Eufemio Espino (Chief Espino).

3. Thereupon, Chief Espino formed a team, composed of Chief Eufemio himself, PO2 Chua, Police Officers Ernie Guarin, Torres, and NUP Capanas, as well as Police Officer 3 Erickson Mendoza (PO3) Mendoza, to conduct a buy-bust operation. The confidential asset who tipped off the illicit activities of Dong and

accused-appellant also joined the team. Chief Espino likewise provided PO2 Chua, who acted as the poseur-buyer, the Php500.00 bill marked money, with serial no. AA016965.

4. The team made a brief stop at the Angeles City Police Station No. 3 for coordination where they were joined by Police Capt. Arnaldo Nunag's (Capt. Nunag) team to assist the buy-bust operation.

5. The team formed by Chief Espino and the team led by Capt. Nunag then proceeded to a gated compound across Moldex Subdivision or Metro Clark in the boundary of Barangays Capaya and Tabun. PO2 Chua, together with the confidential asset, then met with Dong the seller of the shabu, just outside Dong's apartment. At that moment, the other police officers were more or less 20 meters away from PO2 Chua, the confidential asset, and Dong.

6. After a short conversation, PO2 Chua handed the marked money to Dong, who then entered his apartment. When Dong re-emerged therefrom, he handed PO2 Chua a small heat-sealed transparent plastic sachet containing more or less five tenths (0.5) of a gram of shabu.

7. Upon receipt of the small heat-sealed transparent plastic sachet containing more or less five tenths (0.5) of a gram of shabu, PO2 Chua gestured the pre-agreed hand signal, i.e. waving his hands, to his colleagues in the vicinity. At that juncture, the team swooped down on Dong, who, however, was able to escape.

8. During the commotion, a man (later on identified as herein accused-appellant), came out from the apartment brandishing a calibre .38 revolver. Realizing that he was outnumbered, accused-appellant rushed back inside the apartment. The team then barged into the apartment and was able to arrest accused-appellant. His brother, Alfredo Flores (A. Flores), who was inside the apartment, was likewise arrested.

9. Simultaneously, the team found and seized two (2) small heat-sealed transparent plastic sachets containing more or less one gram of shabu as well as drug paraphernalia atop a table inside the living room (or sala) of the apartment of accused-appellant. At that time, accused-appellant was more or less four (4) meters away from the table from where the two (2) small heat-sealed transparent plastic sachets containing shabu were confiscated. The calibre .38 revolver earlier held by accused-appellant was also seized.

10. Upon seizure and confiscation of the two (2) plastic sachets containing more or less one gram of shabu, PO3 Mendoza marked the same as "ESM-1" and "ESM-2" (PO3 Mendoza's initials). Meanwhile, the plastic sachet handed by Dong to PO2 Chua was marked by PO2 Chua with "VFC".

11. Thereafter, PO3 Mendoza prepared and signed the inventory of Seized/Confiscated Items (Inventory Receipt). PO2 Chua and Raul C. Suscano, a representative from the media, likewise signed the same. Accused-appellant and his brother A. Flores refused to sign the Inventory Receipt.

12. After the marking of and inventory-taking of the seized items, accused-appellant and his brother were brought to the CDEU Office for documentation.

13. At the CDEU, PO3 Mendoza likewise executed a Certification of Field Test dated 8 November 2004 stating their initial findings on the seized items. In addition, PO3 Mendoza, together with PO2 Chua executed an Affidavit of Apprehension detailing the results of their buy-bust operation.

14. Thereafter, the seized items were brought to the PNP Regional Crime Laboratory Office 3 (PNP Reg. Crime Lab 3), for testing. The results of the test confirmed that the contents of the plastic sachet with marking "VFC" and the two (2) plastic sachets respectively marked as "ESM-1" and "ESM-2" were methamphetamine hydrochloride or shabu."[5]

After the prosecution presented its witness and the filing of its Formal Offer of Evidence[6] to which on October 8, 2012, the defense filed its Comment and Objection thereto dated June 20, 2012,[7] the defense was directed to adduce its evidence.[8]

The evidence for the defense consisted of the testimony of accused-appellant himself. The defense' version of the events, as summarized in its Brief,[9] is as follows:

“xxx xxx

5 In the morning of 8 November 2004, accused EDGAR FLORES (“Edgar”) was visiting Junior Macalino (“Junior”) in the latter's apartment at Barangay Capaya, Angeles City. When he arrived thereat, Junior was not around so he borrowed the house keys from his brother, Alfredo Flores (“Alfredo”).

5.1. At around 11:00 o'clock a.m. of the same day, he was sleeping inside Junior's house when Alfredo came to get the house keys. Five (5) to seven (7) individuals then entered house, took Edgar's cellular phone and ordered the latter and Alfredo to lie down on the ground. They asked for Edgar's name and when they discovered that he was not the one they were looking for, they searched the house. Afterwards, they showed him a plastic sachet that they allegedly recovered from the salt container. They went out of the house and returned with a handgun, which they tried to use by shooting near the door of the house.

5.2 Edgar and Alfredo were taken to the police station, where they were asked to sign papers which they knew nothing about. The following day, Alfredo was released.

5.3 It was only during arraignment that Edgar learned of the case filed against him.”[10]

On September 12, 2013, the court a quo promulgated its Decision[11] convicting accused-appellant Edgar of the crime charged, the dispositive portion of which reads:

“WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt, the Court finds accused EDGAR FLORES y POLINTAN GUILTY of the offense as charged and hereby sentences him to suffer the penalty of imprisonment of TWELVE YEARS AND ONE DAY, as minimum, to FOURTEEN YEARS AND EIGHT MONTHS, as maximum , of Reclusion Temporal for violation of section 11 of R.A. 9165 and a fine of Php300,000.00.

SO ORDERED.”

On September 13, 2013, accused-appellant Edgar filed a Notice of Appeal[12] which was given due course by the trial court in an Order dated October 11, 2013.[13] In his Brief, accused-appellant submitted a lone assigned error that:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF VIOLATION OF SECTION 11, ARTICLE II OF R.A. NO. 9165 NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[14]

We deny the appeal.

The elements in illegal possession of dangerous drug are: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.[15]

As to the third element, the High Court, in the case of *Andy Quelnan y Quino vs. People of the Philippines*[16] has clarified that possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found. Thus, exclusive possession or control is not necessary.

Consequently, the fact of possession may be proved by direct or circumstantial evidence and any reasonable inference drawn therefrom. With that, the prosecution must prove that the accused had knowledge of the existence

and presence of the drug in the place under his control and dominion, as well as the character of the drug. Since knowledge by the accused of the existence and character of the drug in the place where he exercises dominion and control is an internal act, the same may be presumed from the fact that the dangerous drug is in the house or place over which the accused has control or dominion, or within such premises in the absence of any satisfactory explanation.[17] Hence, the existence of *animus possidendi*, as a state of mind, may be determined on a case-to-case basis by taking into consideration the prior or contemporaneous acts of the accused, as well as the surrounding circumstances.[18]

In the case at bench, accused-appellant Edgar asseverated that he was not in possession, control or custody of the prohibited drugs considering that he was arrested around four (4) meters away from the alleged sachets of shabu.[19] He likewise posited that since he and his brother were both residents of the apartment where the illegal items were seized, either of them could have owned or possessed the said sachets of shabu. For failure, therefore, of the prosecution to prove that he was in actual control or custody of the same, accused-appellant Edgar reiterated that he deserves an acquittal.[20]

We do not agree.

In the case of *People of the Philippines vs. Carlos dela Cruz*,[21] the High Court cited several jurisprudence in relation to the concept of constructive possession. Thus:

“xxx xxx

In *People v. Torres*, [W]e held that there was constructive possession of prohibited drugs even when the accused was not at home when the prohibited drugs were found in the master's bedroom of his house. In *People v. Tira*, [W]e sustained the conviction of the accuseds husband and wife for illegal possession of dangerous drugs. Their residence was searched and their bed was found to be concealing illegal drugs underneath. We held that the wife cannot feign ignorance of the drugs' existence as she had full access to the room, including the space under the bed.

In *Abuan v. People*, [We] affirmed the finding that the accused was in constructive possession of prohibited drugs which had been found in the drawer located in her bedroom.

xxx xxx” [Emphasis supplied]

From the foregoing, it can be gleaned that the finding of illicit drugs [and paraphernalia] in a house or building owned or occupied by a particular person raises the presumption of knowledge and possession thereof which, standing alone, is sufficient to convict.[22] Succintly stated, it is only necessary that the accused must have dominion and control over the contraband.[23] It bears stressing that in the present case, accused-appellant failed to rebut such presumption arising from his knowledge and possession of the prohibited drugs. For one, the trial court had established that accused-appellant Edgar was the person occupying the apartment at the time the illegal items were seized.[24] For another, it can be aptly said that accused-appellant's occupation of the said property and his dominion and control over the prohibited items taken on top of the table at the sala of the apartment were further bolstered by the fact that he was cornered by the police officers thereat and was eventually charged for illegal possession of firearm with the MTC Angeles City.[25]

Accused-appellant Edgar cannot likewise feign lack of knowledge in the custody of the illicit articles merely on his insinuation that a certain Junior Macalino[26] is the real lessee or owner of the apartment. We emphasize that it is crucial for accused-appellant Edgar to present clear and convincing evidence to support said claim but he neither presented proof to establish his position nor presented witnesses to support him. Thus, in the absence of satisfactory explanation on why he was found to be occupying the premises where the illegal items were found, the presumption that he had control and dominion over the illegal items stands. Truly, the prosecution had

successfully shown that accused-appellant Edgar had constructive possession of the subject items.

Accused-appellant Edgar pointed out that the prosecution failed to prove the identity of the sachets of shabu as the Inventory of Seized/Confiscated Items[27] which PO3 Erickson Mendoza (“Mendoza” for brevity) prepared was silent as to the markings allegedly placed.[28] Thus, if the sachets were indeed marked at the place of seizure, the markings supposedly placed by PO3 Mendoza should have been included in the description of the items in the inventory. The absence of the markings, therefore, rendered PO3 Mendoza's testimony doubtful. Further, accused-appellant contended that there was no explanation as to how the sachets were stored and handled, hence, putting into question the integrity of the drugs seized.[29]

This brings to fore the next issue of whether the members of the buy-bust team had complied with the proper procedure provided for under paragraph 1, Section 21, Article II of R.A. No. 9165 as well as the chain of custody rule of the seized drugs after effecting the warrantless apprehension of the accused-appellant.

Paragraph 1, Section 21 (a), Article II of the Implementing Rules and Regulations (IRR) of R.A. No. 9165, laid down the safeguards for the protection of the identity and integrity of dangerous drugs seized, thus:

"xxx xxx

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:

(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 shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items. xxx xxx” [Emphasis supplied]

The failure to strictly comply with Sec. 21 (1), Art. II of RA 9165 does not necessarily render an accused's arrest illegal or the items seized or confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as these would be utilized in the determination of the guilt or innocence of the accused.[30]

People v. Habana[31] thoroughly discusses the proper procedure for the custody of seized or confiscated items in dangerous drugs cases in order to ensure their identity and integrity, as follows:[32]

"xxx xxx

Usually, the police officer who seizes the suspected substance turns it over to a supervising officer, who would then send it by courier to the police crime laboratory for testing. Since it is unavoidable that possession of the substance changes hand a number of times, it is imperative for the officer who seized the substance from the suspect to place his marking on its plastic container and seal the same, preferably with adhesive tape that cannot be removed without leaving a tear on the plastic container. At the trial, the officer can then identify the seized substance and the procedure he observed to preserve its integrity until it reaches the crime laboratory.

If the substance is not in a plastic container, the officer should put it in one and seal the same. In this way the substance would assuredly reach the laboratory in the same condition it was seized from the accused. Further, after the laboratory technician tests and verifies the nature of the substance in the container, he should put his own mark on the plastic container and seal it again with a new seal since the police officer's seal has been broken. At the trial, the technician can then describe the sealed condition of the plastic container when it was handed to him and testify on the procedure he took afterwards to preserve its integrity.

If the sealing of the seized substance has not been made, the prosecution would have to present every police officer, messenger, laboratory technician, and storage personnel, the entire chain of custody, no matter how briefly one's possession has been. Each of them has to testify that the substance, although unsealed, has not been tampered with or substituted while in his care. xxx xxx" [Emphasis supplied]

The chain of custody rule was also elaborated in the case of *Mallillin v. People*,[33] thus:

"xxx xxx As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witnesses' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same. xxx xxx" [Emphasis and underscoring supplied]

In sum, the links that must be established in the chain of custody in a buy-bust situation are as follows: first, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.[34]

To reiterate, what is imperative is the preservation of the integrity and the evidential value of the seized items. This, to Our appreciation, the prosecution, adequately established.

The factual milieu of the case reveals that subsequent to the seizure of the plastic sachets containing suspected shabu found on top of a table in the sala of the apartment where accused-appellant Edgar and his brother were apprehended, P03 Mendoza testified that the marking of the seized items took place in the actual scene[35] in the presence of accused-appellant Edgar and his brother who both refused to sign the copy of the inventory, and likewise in the presence of a representative from the media, Raul Suscano, who, on the other hand, was a signatory to the said inventory.[36] Thereafter, the items seized were brought to the City Drug Enforcement Unit (CDEU) for proper documentation. In his direct examination, PO3 Mendoza testified that he was in possession of the items from the time of confiscation[37] until he turned-over the same to P03 Garilao who brought the items before the PNP Regional Crime Lab in the company of Police Chief Inspector Eufemio De Guia Espino.[38] As shown in the Request for Laboratory Examination,[39] the same clearly demonstrated that the said request was made by Chief Espino.[40] The plastic sachets were then delivered to the forensic chemist, Engr. Ma. Luisa G. David, which later tested positive for methylamphetamine hydrochloride, a dangerous drug. Thereafter, the seized substance was turned over to the Court Interpreter of the trial court as stated in the records of the January 11, 2011 hearing.[41]

From the above-cited flow of events, We are convinced that there was no substantial gap in the chain of custody of the seized drugs which would raise doubts on the authenticity of the evidence presented in court.[42] Verily,

the prosecution duly established the crucial links in the chain of custody of the seized items from the time they were confiscated until they were brought for examination.[43] While it is true, however, that in the Certificate of Inventory prepared by PO3 Mendoza, it was not indicated that the sachets bore markings of "ESM-1" and "ESM-2", it is worth stressing that in his direct examination, PO3 Mendoza positively identified that these were the very same items he recovered atop a table where accused-appellant Edgar was apprehended.[44] Plainly, it only goes to show that the drugs seized from accused-appellant were the same ones presented during trial. To this Court's mind, therefore, there was substantial compliance with the law and the integrity of the drugs seized was properly preserved.[45]

Moreover, as enunciated in the case of *People of the Philippines vs. Leonardo Rusiana y Broquel*,[46] We adhere to the rule that unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper or ill motive to falsely charge accused-appellant of a serious offense, or were not properly performing their duty, their testimonies on the operation deserve full faith and credit. With that, the presumption of regularity in the performance of duties by the police officers must be upheld considering also that accused-appellant Edgar did not bother to file any case against the police officers.[47]

Accused-appellant Edgar's defense that he was merely "at the wrong place at the wrong time" cannot likewise escape this Court's attention. At best, his allegation constitutes as a denial, which, in the case of *People of the Philippines vs. Sherwin Bis y Avellaneda*,[48] was held to be unavailing considering that "appellant was caught in flagrante delicto in a legitimate buy-bust operation." Certainly, the defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecutions for violation of the Dangerous Drugs Act.[49]

At this juncture, We still need it to mention that accused-appellant did not even assail the chain of custody or the issue of the disposition and preservation of subject drug before the trial court.[50] As echoed in the case of *People of the Philippines vs. Joselito Morate y Tarnate*,[51] failure to raise the issue of non-observance of the chain of custody requirement during trial is fatal to the case of the accused-appellant. Further it held:

"xxx xxx As explained in *People v. Sta. Maria*:

The law excuses non-compliance under justifiable grounds. However, whatever justifiable grounds may excuse the police officers involved in the buy-bust operation in this case from complying with Section 21 will remain unknown, because appellant did not question during trial the safekeeping of the items seized from him. Indeed, the police officers' alleged violations of Sections 21 and 86 of Republic Act 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. xxx xxx" [Emphasis supplied]

It is significant to note that accused-appellant was tellingly silent on the issue of chain of custody during trial. Extant from the records is the failure of the defense to assail the integrity of the seized articles, especially during the prosecution's presentation of evidence when PO3 Mendoza testified on that matter.[52] The defense likewise did not submit any documentary evidence to rebut the prosecution witness' account anent the chain of custody of the seized evidence. Thus, following the High Court's pronouncement in the said case of *Morate*,[53] We reiterate that it is vital for the defense to make the necessary objection against the evidence offered by the prosecution. Absent the same, he cannot raise the question for the first time on appeal.[54]

In sum, We hold that accused-appellant Edgar is properly liable for the act of illegal possession of prohibited drugs. Anent the penalty thereof, We hold that the trial court correctly imposed the penalty of imprisonment

ranging from twelve (12) years and one (1) day as minimum, to fourteen (14) years and eight (8) months as maximum. Section 11, Article II of Republic Act No. 9165. Paragraph 2, No. 3 thereof provides:

“(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or 'shabu', or other dangerous drugs such as, but not limited to, MDMA or 'ecstasy', PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.”

Following the provisions of Republic Act No. 4103, otherwise known as the Indeterminate Sentence Law, “xxx 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”.[55] Thus, the indeterminate penalty of imprisonment ranging from twelve (12) years and one (1) day to fourteen (14) years and eight (8) months and a fine of P300,000.00 imposed by the trial court was proper.

WHEREFORE, the appeal is DENIED. The September 12, 2013 Decision of Angeles City Regional Trial Court, Branch 57, in Criminal Case No. DC 04-366, finding accused-appellant Edgar Flores y Polintan guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act (R.A.) No. 9165 is hereby AFFIRMED. No costs.

SO ORDERED.

Dimaampao, J. B., Chairperson, and Salandanan Manahan, C., JJ., concur.

[1] Records, pp. 160-170; Rollo, pp. 37-46.

[2] Rollo, pp. 121-122.

[3] Records, p. 1.

[4] Rollo, pp. 100-119.

[5] Rollo, pp. 104-106; OSG's Appellee's Brief, pp. 2-4.

[6] Records, pp. 136-144.

[7] Id. at 148-148-a.

[8] Id. at 149.

[9] Rollo, pp. 18-35.

[10] Id. at 24-25.

[11] See note 1.

[12] Records, pp. 171-172.

[13] Id. at 173.

[14] Rollo, p. 21, Brief for the Accused-Appellant, p. 1.

- [15] Salvador V. Rebellion vs. People of the Philippines, G.R. No. 175700, July 5, 2010.
- [16] G.R. No. 166061, July 6, 2007.
- [17] Id.
- [18] See People of the Philippines vs. Edelma Lagata y Manfoste, G.R. No. 135323, June 25, 2003.
- [19] Rollo, p. 29.
- [20] Id. at 30.
- [21] G.R. No. 182348, November 20, 2008.
- [22] People of the Philippines vs. Maribel Lagman, et al., G.R. No. 168695, December 8, 2008.
- [23] People of the Philippines vs. Rolando Almeida y Calvin @ Tata Rolly, G.R. Nos. 146107-09, December 11, 2003.
- [24] Rollo, p. 45.
- [25] Id.
- [26] TSN dated February 12, 2013, p. 10.
- [27] Records, p. 143.
- [28] Rollo, p. 27.
- [29] Id.
- [30] Zalameda v. People, G.R. No. 183656, September 4, 2009.
- [31] G.R. No. 188900, March 5, 2010.
- [32] People of the Philippines vs. Arnold Martinez, et. al., G.R. No. 191366, December 13, 2010.
- [33] G.R. No. 172953, April 30, 2008.
- [34] People v. Gum-Oyen, G.R. No. 182231, April 16, 2009.
- [35] TSN dated January 11, 2011, p. 10.
- [36] Records, p. 143.
- [37] TSN dated January 11, 2011, p. 9.
- [38] Id.
- [39] Records, p. 138.
- [40] Id.
- [41] TSN dated January 11, 2011, p. 10.
- [42] Paraphrasing the High Court in the case of People of the Philippines vs. Cipriano Cardenas y Gofrerica, G.R. No. 190342, March 21, 2012.
- [43] People of the Philippines vs. Sitti Domado, G.R. No. 172971, June 16, 2010.

[44] TSN dated January 11, 2011, pp. 9-10.

[45] People of the Philippines vs. Peter M. Campomanes, et al., G.R. No. 187741, August 9, 2010.

[46] G.R. No. 186139, October 5, 2009.

[47] TSN dated February 12, 2013, p. 11.

[48] G.R. No. 191360, March 10, 2014.

[49] Id.

[50] People of the Philippines vs. Nieva Alberto y De Nieva, G.R. No. 179717, February 5, 2010.

[51] G.R. No. 201156, January 29, 2014.

[52] Paraphrasing the High Court in the case of People of the Philippines vs. Joselito Morate y Tarnate, *supra*.

[53] See note 51.

[54] See People of the Philippines vs. Manuel Aplat y Sublino, et al., G.R. No. 191727, March 31, 2014.

[55] Section 1, R.A. No. 4103

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