

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PONCIANO DIBABAO GARSOLA, ACCUSED-APPELLANT.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal[1] from the Decision[2] of Branch 57 of the Regional Trial Court of Cebu City dated March 25, 2011 in Criminal Cases Nos. CBU-81487 and CBU-81488, finding accused-appellant guilty beyond reasonable doubt for Violation of Section 5[3] of Article II of R.A. 9165, otherwise known as the “The Comprehensive Dangerous Drugs Act of 2002”, while acquitting him in Criminal Case No. CBU-81488.

The Facts

The case originated from the filing of two (2) separate Informations[4] dated October 25, 2007 against accused-appellant, which read:

CBU-81487

“That on or about the 23rd day of October, 2007 at about 8:30 o'clock in the evening, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, and without authority of law, did then and there sell, deliver or give away to poseur buyer one (1) small heat sealed plastic pack of white crystalline granules, weighing 0.04 gram, locally known as shabu, containing Methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.”[5]

CBU-81488

“That on or about the 23[rd] day of October, 2007 at about 8:30 o'clock in the evening, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there have in his possession and control eight (8) heat sealed transparent plastic sachets of white crystalline substance, weighing a total of 0.32 gram, locally known as shabu, containing methamphetamine hydrochloride, a dangerous drug, without authority of law.

CONTRARY TO LAW.”[6]

Upon arraignment[7] on January 15, 2008, the accused-appellant, duly assisted by counsel, pleaded not guilty to the crimes charged.

Thereafter, trial on the merits ensued.

The Version of the Prosecution[8]

The facts as summarized by the plaintiff-appellee in its Brief[9] are as follows:

PDEA-7, Cebu City received reports regarding selling of shabu by Ponciano Garsola, the herein accused.

Acting on the tip, a team was formed to conduct a buy bust operation on October 23, 2007.

Prior to jump off, a briefing was conducted relative to the name of the subject, area or place of operation, assignment of respective roles, like IA Levi Ortiz with the informant as the poseur-buyer and the rest of the team members as backup, preparation of the buy bust money of P100 (Exh. "F") bearing serial no. AE 536292 for the one packet of shabu, which money was handed by agent Ortiz to the informant before proceeding to the area for the informant to negotiate in order to avoid the danger that accused may refuse if agent Ortiz made the transaction. The authority to operate (Exh. "H") was prepared and the pre-signal of taking off the cap was agreed.

IA Levy Ortiz, the informant, IO David Mark Maramba with other PDEA agents, and a driver proceeded to the target place, in Ermita, Cebu City.

Agent Ortiz with the informant proceeded to an alley while the rest were posted ten (10) meters away. The subject (accused) was playing with the video carrera machine. The informant conversed with the accused and introduced Ortiz to the accused. The latter said the price of the shabu is P400.00. It was the informant, who had the P100.00 bill since IA Ortiz gave it to the former in case the accused would not transact with him. When the informant handed the P100.00, Ortiz the poseur buyer was still reaching for the additional amount of P300.00 to complete the P400.00 when accused delivered the shabu (Exh. "B-1") to the informant. Ortiz executed the pre-arranged signal, placed the accused under arrest and informed him of his rights and violation. While still at the scene the shabu sold and delivered by the accused to the informant was turned over by the latter to Ortiz.

A body search conducted on the accused yielded to the confiscation of another eight (8) packets of shabu (Exh. "B"). The shabu sold and those recovered were separately placed in plastic packs. Ortiz marked the shabu sold as "PG-1" and for the recovered eight packs of shabu, the markings "PG-2" to "PG-9" To determine the presence of illegal drugs, a letter request (Exh. "H") was prepared and together with seized illegal drugs, the same were delivered by agent Maramba. The Certificate of Inventory (Exh. "D") was duly signed by media representative Earl Rallos of DYSS, Cebu and Edgar de la Calzada, a barangay councilor and photographs (Exh. "E" to "E-3") of the seized evidence and signing of the inventory were taken.

P/Sr. Insp. Mutchit Salinas an expert who examined the items, found the same to be positive for methamphetamine hydrochloride, a dangerous drug, per Chemistry Report No. D-1039-2007 (Exh. "C").[10]

The Version of the Accused-Appellant

The defense presented two witnesses, the accused-appellant himself and Mr. Rizalde Silvano. From the testimony of the accused-appellant and as summarized in his Brief[11], the following incident transpired: On the day of his arrest, at around 8:00 p.m., he came from his house on his way to the billiard hall.[12] While accused-appellant was walking, a police officer pulled out his firearm and apprehended him. The police officer frisked him but recovered nothing in his person.[13] Then accused-appellant was made to board a vehicle with another police officer and brought to a certain place near Cebu Normal University.[14] He was asked to become an asset, but he refused, as for him, life is so short.[15] Inside a room, accused-appellant was asked to sign a document but he refused.[16] He was ordered to go to another room and on top of a table were a plastic pack of shabu and P100.00 bill.[17] The police took pictures of him and he was made to wear a short with PDEA Detainee print on it.[18] Accused-appellant denies having sold shabu to IA Ortiz and asserts that no drugs were recovered from him[19].

While in jail, he befriended Rizaldy Silvano, a PDEA asset, who he requested to testify, which in fact he did, in favor of the accused-appellant after the latter learned from Silvano that the latter was present during the buy bust operation on October 23, 2007 and it was from a certain "Ramas" that Silvano bought the item.[20]

After the Defense rested its case, the parties were directed to file their respective memoranda.

The Ruling of the Regional Trial Court

In a Decision[21] dated March 25, 2011, the Regional Trial Court found the accused-appellant guilty beyond reasonable doubt of the crime penalized under Sections 5, Article II of RA 9165. In the assailed decision, the trial court found the evidence presented by the prosecution to be sufficient to establish the elements of the crimes charged. The trial court likewise found the chain of custody of the seized illegal drugs to have remained unbroken. The decretal portion of the decision reads:

“WHEREFORE, for all the foregoing, accused Ponciano Garsola is hereby sentenced to suffer the penalty of life imprisonment and a fine of P500,000.00, for Violation of Section 5, Article II of RA 9165.

However, the accused is acquitted on reasonable doubt of the charge of possession of shabu under Section 11, Article II of RA 9165.

The pack of shabu, subject of sale and the eight packs of shabu, subject of possession are forfeited in favor of the government.

SO ORDERED.”[22]

Aggrieved with the decision, the accused-appellant timely filed this appeal[23] and raised the following as assignment of errors, to wit:

I THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR VIOLATION OF SECTION 5, ARTICLE II, REPUBLIC ACT 9165, DESPITE PROSECUTION'S FAILURE TO ESTABLISH AND PRESERVE THE INTEGRITY AND IDENTITY OF THE CORPUS DELICTI OF THE OFFENSE CHARGED.

II THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED WHEN THE LATTER'S GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.[24]

This Court's Ruling

The Appeal is meritorious. We cannot sustain accused-appellant's conviction for illegal sale of dangerous drugs, as this Court hereby acquits Garsola in view of the prosecution's failure to prove his guilt beyond reasonable ground.

We have repeatedly held that the trial court's evaluation of the credibility of witnesses and their testimonies is entitled to great respect and will not be disturbed on appeal. However, this is not a hard and fast rule. We have reviewed such factual findings when there is a showing that the trial judge overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that would have affected the case.[25]

It is well-settled that an appeal in a criminal case opens the whole case for review. This Court is clothed with ample authority to review matters, even those not raised on appeal, if we find them necessary in arriving at a just disposition of the case. Every circumstance in favor of the accused shall be considered. This is in keeping with the constitutional mandate that every accused shall be presumed innocent unless his guilt is proven beyond reasonable doubt.[26]

In the present case, Garsola's guilt was not proved beyond reasonable doubt. The prosecution failed to establish that the shabu examined by the crime lab forensic chemist, and later presented in court, was the same item allegedly recovered from Garsola. In prosecutions involving narcotics and other illegal substances, the substance itself constitutes part of the corpus delicti of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt.[27] Evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from appellant; otherwise, the prosecution for possession of illegal drugs under R.A. No. 9165 fails.[28]

In drug-related prosecutions, the State not only bears the burden of proving the elements of the offenses of sale and possession of methamphetamine hydrochloride under R.A. 9165, but also carries the obligation to prove the corpus delicti, the body of the crime, to discharge its overall duty of providing the guilt of the accused beyond reasonable doubt. The prosecution fails to comply with the indispensable requirement of proving corpus delicti not only when it is missing but also when there are substantial gaps in the chain of custody of the seized drugs which raise doubts on the authenticity of the evidence presented in court.[29]

Moreover, there are links that must be established in the chain of custody, namely: “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”.[30]

Hence, it is imperative that the identification of the drug seized from the accused must be established by a proper chain of custody. This is to ensure that doubts regarding the identity of the evidence are removed through the monitoring and tracking of the movements of the seized drugs from the accused, to the police, to the forensic chemist, and finally to the court. In this case, the integrity of the drug allegedly recovered from Garsola was fatally compromised.

First, the marking was only made at the PDEA office and not immediately upon confiscation.

In this regard, Section 21(a) of the Implementing Rules and Regulations of RA 9165 provides:

(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; (Emphasis supplied).

The failure of the prosecution to show that the police officers conducted the required physical inventory and photographed the objects confiscated does not ipso facto result in the unlawful arrest of the accused or render inadmissible in evidence the item seized. This is due to the proviso added in the implementing rules stating that it must still be shown that there exists justifiable grounds and proof that the integrity and evidentiary value of the evidence have not been preserved.[31] “What is crucial is that the integrity and evidentiary value of the seized items are preserved for they will be used in the determination of the guilt or innocence of the accused.”[32]

Here, the records are bereft of any indication that would show that the prosecution was able to establish the arresting officers’ compliance with the procedural safeguards under R.A. 9165. In the direct-examination by Pros. Lapinid of Intelligence Officer II David Maramba, the later narrated that Investigation Agent V Levi S. Ortiz marked the pieces of evidence in the PDEA Regional Office 7:

Q:

Who placed the markings on these plastic packs?

A:

It was agent Ortiz, ma'am.

Q:

When and where did Ortiz mark those pieces of evidence?

A:

In our office, PDEA Regional Office 7, ma'am.[33] (emphasis supplied)

We do not disregard our previous rulings that this law comes with an exception but the problem in this case is that the police officers failed to justify this lapse as they deliberately did not bring any marking and inventory instruments. In fact, IA5 Levi S. Ortiz's narration when cross examined by Atty. Bonghanoy is very telling:

Q:

And when you arrived at the office the marking was made therein, correct?

A:

Yes.

Q:

And the inventory was also conducted in the same office, correct?

A:

Yes.

Q:

Since you received the one(1) pack of shabu from the civilian informant and also this Maramba turned over to you the eight(8) packs of shabu in a plastic pack, did you place the one (1) pack of shabu to the plastic container which contained the eight packs of shabu?

A:

After the marking Your Honor.

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Q:

May I ask the reason why the marking and the inventory was not made at that time of the arrest?

A:

It was a judgment on my part sir because I was afraid that something bad will happen to the team if we will conduct the inventory at the crime scene.

Q:

So, it's a security risk?

A:

Yes sir.

Q:

When I asked you earlier whether you brought with you what instruments or tools did you bring prior to the conduct of the buy bust operation you never mentioned of any marking paraphernalias or inventory or equipments, did I get you right?(sic)

A:

Yes sir.

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Q:

So everytime you felt that the place is a security risk you will not bring with you any marking instruments?

A:

It depends upon the consensus of the team sir.

Q:

So everytime if you feel that the place is a security risk you will not bring any marking and inventory instrument with you?

A:

Yes sir.[34] (emphasis supplied)

It is clear that the police officers in this case only relied on their own gut-feeling in ascertaining how to execute the buy bust operation rather than follow the proper procedure required under the law. Hence, they are bereft of any excusable ground justifying said lapse.

Worse, the seized items were not immediately marked upon arrival in the PDEA office. IO2 David Mark Mramba during the cross-examination conducted by Atty. Landero narrated:

Q:

If you know, when did Ortiz mark the evidence?

A:

During the conduct of our inventory.

Q:

And when, a day after the arrest?

A:

On the same day.

The court interrupted and asked:

Q:

You mean upon arrival?

A:

No immediately upon arrival Your Honor. (sic)

Q:

So, it was marked on the same day, not necessarily upon arrival?

A:

Yes Your Honor.[35] (emphasis supplied)

Second, IA5 Levi S. Ortiz never testified of any precaution done to preserve the identity and ensure the integrity of the specimen after confiscating it from Garsola. The police officer's testimony when he was cross-examined by Atty. Bonghanoy reveals that there had been improper handling and segregation of the confiscated items:

Q:

And since you testified today that after the marking and the inventory in your office you placed it in a plastic container, would it be safe to assume that the plastic container only existed at the office and never at the crime scene?

A:

After the inventory I transferred the items to the plastic container in our office that will be used in storing the evidence for transport to the crime laboratory.

Q:

So what I am saying is that you segregated the items only at the police station by placing them in the plastic container, correct?

A:

No. I took the pack of shabu, subject of sale, after the arrest, from the confidential informant because he was the one who received the item and placed it my pocket (sic) but the rest of the evidences sir were handed to me by Maramba placed inside the plastic but not the plastic we used in delivering the items to the PNP Crime Laboratory.

Q:

Because according to your earlier testimony sir I presumed the segregation of the items in a empty (sic) plastic container was made at the crime scene?

A:

Actually there was segregation but it was not placed altogether.

Q:

But you are trying to clarify now that there was a segregation but it was never segregated in a plastic container?

A:

Yes sir.

Q:

The plastic container only came about at the office?

A:

Yes sir.[36] (emphasis supplied)

It is evident that the manner in which the dangerous drugs were preserved created a doubt on whether or not those seized items were the same drugs that were presented in court.

Third, it bears to stress that IA5 Levi S. Ortiz testified that it was agent Maramba who delivered the confiscated nine (9) plastic packs of shabu to the PNP Crime Laboratory[37] but nowhere in the records could We find that it was stated that IA5 Levi S. Ortiz, who has the custody of the said seized items, forward the same to agent Maramba. Thus, highlighting the gaps in the chain of custody.

Lastly, the integrity of the sachet of shabu was also destroyed when prosecution failed to show to the court the manner of handling the specimen and the precautions taken by the forensic chemist to preclude any possibility of switching, contamination or substitution of the evidence. It was not even disclosed to the court where the items were stored before they were brought to the court.

To emphasize the importance of establishing this part in the chain, the Supreme Court in *People vs. Denoman*[38] declared that:

“Sections 3 and 6 (paragraph 8) of Dangerous Drugs Board Regulation No. 2, Series of 2003, requires laboratory personnel to document the chain of custody each time a specimen is handled or transferred until its disposal; the board regulation also requires identification of the individuals in this part of the chain. The records of the case are bereft of details showing that this board regulation was ever complied with; the records also do not indicate how the specimen was handled after the laboratory examination and the identity of the person who had the custody of the shabu before its presentation in court.”

As a further matter, the prosecution also failed to reveal the identity of the person who brought the evidence to the court.

The Highest Court in *People vs. Partoza*[39] stressed that:

“Furthermore, the evidence of the prosecution did not reveal the identity of the person who had the custody and safekeeping of the drugs after its examination and pending presentation in court. The failure of the prosecution to establish the chain of custody is fatal to its cause.”

The broken link in the chain of custody also admit the possibility that a person, not in the chain, ever gained possession of the seized evidence.

It bears to stress that in the Joint Affidavit[40] of IA5 Levi S. Ortiz and IOII David Mark D. Maramba, it states that the pieces of evidence seized from the arrested person were: One (1) piece transparent heat-sealed plastic packet containing shabu or Methamphetamine hydrochloride - subject of sale; Eight (8) pieces of plastic packets containing shabu seized from the possession of the subject; One Hundred Pesos (P100.00) buy-bust money with serial number AE536292 marked “LSO”. (emphasis supplied)

Logic dictates that if indeed there was a consummated illegal sale of dangerous drugs, then the One (1) piece transparent heat-sealed plastic packet containing shabu, the subject of sale, should be seized from the poseur-buyer and not from the seller.

A strict scrutiny of the records would show that there had been inconsistencies with the testimonies of the witnesses.

For one, the police officers could not agree whether they boarded in one vehicle or two. IOII David Mark Maramba testified that they boarded a vehicle at the same time[41] whereas IA5 Levi S. Ortiz testified that his co-agents used the PDEA service vehicle while he and their confidential agent boarded a jeep, a public vehicle.[42]

Another dent in the testimonies of the prosecution's witnesses is the manner by which the dangerous drugs were seized. Here, the officers are incorrigible as to who conducted the body search. Intelligence Officer II David Mark Maramba in his direct examination by Pros. Lapinid narrates in this wise:

Q:

What else did you do or what else was done to the subject after that?

A:

He was searched by agent Ortiz for any deadly weapons or other more evidences that may have in his possession, ma'am.

Q:

Agent Ortiz?

A:

Yes, ma'am.[43] (emphasis supplied)

IO2 David Mark Maramba stick by his version when he was cross-examined by Atty. Landero:

Q:

So when all of you approached him what transpired next?

A:

The subject was searched and there were additional packets of shabu recovered from the subject by Agent Ortiz and also the buy bust money.

Q:

So, when you first approached the accused you immediately frisked him, is that what you mean?

A:

It was done by Ortiz ma'am. I only assisted him in arresting the subject.[44] (emphasis supplied)

In contrast, IA5 Levi S. Ortiz during the direct testimony of Pros. Lapinid negates IO2 David Mark Maramba's testimony and states that:

Q:

After that what happened?

A:

Agent Maramba frisked the subject for deadly weapon and he was able to confiscate from the subject eight (8) more packets of shabu, ma'am.

Q:

Did you see from where Maramba recovered these eight (8) additional packets of shabu?

A:

Yes, ma'am.

Q:

Where exactly?

A:

From the pocket of Ponciano Garsola, Ma'am.[45] (emphasis supplied)

It is clear that the prosecution's witnesses differed in their narration of the buy bust operation. These inconsistencies poses a query on whether or not said operation was conducted or not.

In the cross-examination, IA5 Levi Ortiz positively answered Atty. Bonghanoy when he was asked whether they conducted the buy-bust operation at 5:00 o'clock in the evening.[46] However, in his direct testimony as well as in the information[47], it was stated that it was conducted around 8:00 o'clock in the evening while in the joint affidavit[48] and in the resolution[49] of the public prosecutor it was stated that it was conducted around 8:35 o'clock in the evening.

Browsing through the records, We could not pass without noticing that the officers only rely on their practice rather than the procedure as laid down by the law.

Q:

So in your pre-operation report (Exh. "I") there no (sic) indication that the serial number of the buy bust money was placed there?

A:

No indication Your Honor.

Q:

Anyway, it's not prejudicial buy bust operation. Anyway, it's the serial number of the money, it's not the name of the subject which might eventually leak out if in case it is placed or reflected in the pre-operation.

A:

Actually we do not indicate the serial number of the buy bust money.

Q:

Do you think that could be the reason?

A:

It's our customary procedure Your Honor.

Q:

Well, customary procedure may not be good.[50] (emphasis supplied)

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In *Reyes vs. Court of Appeals*[51], the Supreme Court emphasized that a "conviction must stand on the strength of the prosecution's evidence, not on the weakness of the defense which the accused put up. Evidence proving the guilt of the accused must always be beyond reasonable doubt. If the evidence of guilt falls short of this requirement, the Court will not allow the accused to be deprived of his liberty. His acquittal should come as a matter of course"[52]

Taking into account the inconsistent testimonies of the prosecution witnesses as to the sale transaction and the substantial gaps in the chain of custody of the seized drugs which raised doubts on the authenticity of the evidence presented in court, We believe that there is no sufficient proof that accused-appellant has committed, was actually committing, or is attempting to commit an offense when he was arrested without a warrant by then IAI Levi S. Ortiz and IO1 David Mark D. Maramba. Hence, his arrest was illegal as it does not fall under Section 5, Rule 113 of the Rules of Court where an arrest made without a warrant issued by the court is lawful.[53]

All told, when the guilt of the accused-appellant has not been proven with moral certainty, as in this case, it is Our policy of long standing that his presumption of innocence must be favored and his exoneration be granted as a matter of right.[54]

In fine, We repeat what the Court fittingly held in *People vs. Ong*[55], a case similarly involving a buy-bust operation, thus:

The Constitution mandates that an accused shall be presumed innocent until the contrary is proven beyond reasonable doubt. While appellant's defense engenders suspicion that he probably perpetrated the crime charged, it is not sufficient for a conviction that the evidence establishes a strong suspicion or probability of guilt. It is the burden of the prosecution to overcome the presumption of innocence by presenting the quantum of evidence required.

In the case at bar, the basis of acquittal is reasonable doubt, the evidence for the prosecution not being sufficient to sustain and prove the guilt of appellants with moral certainty. By reasonable doubt is that doubt engendered by an investigation of the whole proof and an inability, after such an investigation, to let the mind rest easy upon the certainty of guilt. An acquittal based on reasonable doubt will prosper even though the appellants' innocence may be doubted, for a criminal conviction rests on the strength of the evidence of the prosecution and not on the weakness of the evidence of the defense.[56] Suffice it to say, a slightest doubt should be resolved in favor of the accused.[57]

Since Garsola's guilt was not proved beyond reasonable doubt, We are, thus, impelled to reverse his conviction.

WHEREFORE, the appeal is hereby GRANTED. The Decision of the RTC, Branch 57, Cebu City, dated March 25, 2011, in Criminal Case No. CBU-81487, finding Ponciano Dibabao Garsola guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) 9165 is hereby REVERSED and SET ASIDE.

Ponciano Dibabao Garsola is ACQUITTED of the crimes charged on the ground of reasonable doubt and ORDERED IMMEDIATELY RELEASED from custody, unless he is being held for some other lawful cause. The responsible officer is ORDERED to implement this Decision and to report to this Court the action taken hereon within five (5) days from receipt.

SO ORDERED.

Hernando, Chairperson and Azcarraga-Jacob, JJ., concur.

[1] See accused-appellant's Brief, rollo, pp. 61-77.

[2] Penned by Judge Enriqueta Loquillano-Belarmino, rollo, pp. 39-44, records pp. 98-103.

[3] Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.
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[4] Records, p. 1.

[5] See Information dated October 25, 2007, records p. 1.

[6] See Information dated October 25, 2007, records p. 1.

[7] See Certificate of Arraignment, records p. 24.

[8] See the Brief for the plaintiff-appellee, rollo, pp.104-116.

[9] Id.

- [10] The Counterstatement of Facts is entirely based on the Judgment dated March 25, 2011.
- [11] See the Brief for the accused-appellant, rollo pp.61-77; Evidence for the Defense, rollo, p. 64.
- [12] TSN, January 12, 2011, p. 5.
- [13] Id., p. 8.
- [14] Id., p. 9.
- [15] Id., p. 10.
- [16] Id., p. 11.
- [17] Id., p. 11.
- [18] Id., p. 12.
- [19] Id., p. 14.
- [20] TSN, November 11, 2010, p. 7.
- [21] Decision, rollo, pp. 39-44, records pp. 98-103.
- [22] See Decision, rollo, p. 44, records p. 103.
- [23] See accused-appellant's Brief, rollo, pp. 61-77.
- [24] See accused-appellant's Brief, rollo, pp. 64-65.
- [25] People vs. Racho, G.R. No. 186529 citing Valdez v. People, G.R. No. 170180, November 23, 2007, 538 SCRA 611; People v. Chua, G.R. Nos. 136066-67, February 4, 2003, 396 SCRA 657, 664.
- [26] People v. Racho, G.R. No. 186529 citing People v. Chua, G.R. Nos. 136066-67, February 4, 2003, 396 SCRA 657, 664.
- [27] People vs. Suan, G. R. No. 184546, February 22, 2010.
- [28] People of the Philippines vs. Denoman, G.R. No. 171732. August 14, 2009.
- [29] People vs. Coreche, G.R. No. 182528, August 14, 2009.
- [30] People vs. Salvador, G.R. No. 190621, February 10, 2014 citing People v. Kamad, G.R. No. 174198, January 19, 2010.
- [31] People vs. Salvador, G.R. No. 190621, February 10, 2014 citing People v. Rivera, G.R. No. 182347, October 17, 2008.
- [32] People vs. Salvador, G.R. No. 190621, February 10, 2014 citing People v. Manalao, G.R. No. 187496, February 6, 2013.
- [33] TSN, August 27, 2008, p. 17.
- [34] TSN, May 28, 2010, pp. 16-19.
- [35] TSN, November 6, 2008, pp. 17-18.
- [36] TSN, May 28, 2010, pp. 14-15.

[37] TSN, February 4, 2009, p. 25.

[38] G.R. No. 171732, August 14, 2009.

[39] G.R. No. 182418, May 8, 2009.

[40] Records, p. 7.

[41] TSN, August 27, 2008, p. 11.

[42] TSN, February 4, 2009, p. 8.

[43] TSN, August 27, 2008, p. 14.

[44] TSN, November 6, 2008, p. 10.

[45] TSN, February 4, 2009, p. 13.

[46] TSN, May 28, 2010, p. 3.

[47] Records, p. 1.

[48] Records, p. 7.

[49] Records, p. 3.

[50] TSN, May 28, 2010, p. 10.

[51] G.R. No. 180177, April 18, 2012, 670 SCRA 148.

[52] Id. citing *People vs. Obeso*, G.R. No. 152285, October 24, 2003, 414 SCRA 447, 460; *People vs. Decillo*, G.R. No. 121408, October 2, 2000, 341 SCRA 591, 598-599.

[53] “Sec. 5. Arrest without a warrant; when lawful – A peace officer or a private person, may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.”

[54] *People vs. Wilson Lim, et.al.*, G.R. No. 141699, 07 August 2002.

[55] G.R. No. 175940 [Formerly G.R. Nos. 155361-62], February 6, 2008, 544 SCRA 123, 141.

[56] *People vs. De la Cruz*, G.R. No. 185717, June 8, 2011, citing *People vs. Ong* G.R. No. 175940 [Formerly G.R. Nos. 155361-62], February 6, 2008, 544 SCRA 123, 141; citing *People vs. Pabiona*, G.R. No. 145803, 30 June 2004, 433 SCRA 301, 323, citing *People v. Morada*, 307 SCRA 362, 380 (1999), *People vs. Cañete*, G.R. No. 128321, 11 March 2004, 425 SCRA 353, and *People v. Leaño*, 366 SCRA 774, 792 (2001).

[57] *People vs. Ong* G.R. No. 175940 [Formerly G.R. Nos. 155361-62], February 6, 2008, 544 SCRA 123, 141; citing *People vs. Milan*, 370 Phil. 493, 506 (1999).

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