

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE. VS. CARLITO DE LOS SANTOS ERBITO, ACCUSED-APPELLANT.

Ponente: DIY, J.

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DIY, J.:

Before this Court is an Appeal assailing the Decision[1] dated January 5, 2009 of Branch 58, Regional Trial Court of Cebu City (hereafter, the “court a quo”) in Criminal Case No. CBU-78530 entitled “People v. Carlito Delos Santos Erbito”, which found Carlito Delos Santos Erbito (hereafter, “accused-appellant”) guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The dispositive portion of the Decision reads:

Accordingly, the court finds the accused GUILTY as charged and hereby sentences him to suffer the penalty of imprisonment from twelve (12) years and one (1) day, as minimum, to fifteen (15) years, as maximum and to pay a fine of P300,000.00

The full period of preventive detention shall be credited in the service of this sentence.

Finally, the 2 sticks of (Exh. B) are confiscated in favor of the state for proper disposition.

SO ORDERED.

In an Information[2] docketed as Crim. Case No. CBU-78530, herein accused-appellant was charged with violation of Section 11, Article II of Republic Act No. 9165, viz:

That on or about the 23rd day of November 2006, at about 2:30 p.m. 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 under his control two (2) sticks of marijuana cigarette weighing .25 gram, a dangerous drug, without being authorized by law.

CONTRARY TO LAW.

Accused-appellant was arraigned on January 16, 2007.[3] He pleaded not guilty. Pre-trial was conducted. Thereafter, trial on the merits ensued.

The Version of the Prosecution

The Prosecution’s evidence,[4] as culled from the testimony of PO3 Michael Ernie (hereafter, “PO3 Ernie”), SPO1 Eduardo Deligero (hereafter, “SPO1 Deligero”), and PO1 Jerry Macabudbud (hereafter, “PO1 Macabudbud”), is as follows:

On November 23, 2006, at around 2:30 o’clock in the afternoon, while manning their office at the Parian police station, SPO1 Deligero, PO1 Dioscoro Ello, Jr., PO1 Macabudbud, and PO3 Ernie received information regarding a trouble alarm at the corner of Mabini and Colon Streets, which is 40 to 50 meters away from the station.

With the foregoing information, the team immediately proceeded to the area. On their way, they met the woman

victim Andresa Alburo (hereafter, “Alburo”) whose face was bleeding. Alburo pinpointed to them accused-appellant as the person who robbed her. The police officers, followed by Alburo, then gave chase to accused-appellant who was more or less five (5) meters away. They were able to get hold of accused-appellant at Binagayan Street. Alburo then identified the suspect who robbed and mauled her. The police officers arrested accused-appellant and recovered from his hand the items taken from Alburo (a brown shoulder bag containing her Nokia 6600 cellphone, P18,000.00 cash, two [2] gold bracelets, and one [1] earring). Alburo informed them that her gold necklace was also taken from her but it was not included in the recovered items. Hence, SPO1 Deligero conducted a body search. Instead of recovering the necklace, SPO1 Deligero recovered two (2) marijuana sticks from the secret pocket of accused-appellant.

Accused-appellant was brought to the police station, with the two sticks of marijuana which were allegedly recovered from him. In going to their office, SPO1 Deligero was in possession of the two sticks of marijuana.

At the station, SPO1 Deligero marked the two (2) marijuana sticks as “CDE 11/23/06-A” to “CDE 11/23/06-B”. A letter-request for laboratory examination was then prepared. The two (2) marijuana sticks were then brought by PO1 Ello and PO1 Macabudbud to the PNP Regional Crime Laboratory-7 at Camp Sotero Cabahug, Cebu City for examination. Forensic Chemical Officer Jude Daniel Mendoza (hereafter, “Mendoza”) examined the seized items. Mendoza found that the seized sticks are positive for marijuana, a dangerous drug. Mendoza later prepared the corresponding Chemistry Report No. D-1841-2006.[5]

The Version of the Defense

The Defense, on the other hand, presented as sole witness accused-appellant himself, who testified as follows:[6]

On November 23, 2006, at about 1:00 o'clock in the afternoon, accused-appellant was on his way home from his workplace at Carmel Display Center located behind Barangay Lorega. He first boarded a jeepney going to Colon Street and disembarked near the police station at Parian to board another jeepney going to Alaska, Mambaling. Upon crossing the street at Parian, he saw a woman being held by a man. Accused-appellant approached the duo and asked the man to release the woman because the woman was already bleeding. The man told him not to interfere. However, when the man picked something from the ground, accused-appellant bumped the man and held him. While they were grappling, the woman fell to the ground unconscious. The man tried to pull out a knife from his back but accused-appellant got hold of the man's hand. Accused-appellant then twisted the arm of the man and hit the latter with his elbow, prompting the man to release the knife. The man then ran away. Accused-appellant gathered the items of the woman which were scattered on the ground and waited for the police to arrive. Three persons then arrived, kicking accused-appellant at the right portion of his waist. He became unconscious and the trio continued to maul him. Accused-appellant gained consciousness inside the police station. Thereat, the police asked him why he robbed the woman and he answered that he was only helping the lady. Accused-appellant was also mauled by the police inside the detention cell. He was asked the name of his companion, and if he did not disclose it, the investigating policeman would plant evidence (shabu) against him. Accused-appellant was also informed that he would be released if he had money. He told the policeman that he had no money.

On January 5, 2009, the court a quo rendered the assailed Decision,[7] which found accused-appellant guilty beyond reasonable doubt of violation of Section 11, Article II, of Republic Act No. 9165.

On January 21, 2009, accused-appellant filed his Motion for Reconsideration.[8] Comment/Opposition[9] was filed by the prosecution on February 20, 2009, while the Rejoinder to the Comment/Opposition[10] was filed by accused-appellant on the same day.

On April 17, 2009, the court a quo issued an Order denying the Motion for Reconsideration.[11]

On April 29, 2009, accused-appellant filed his Notice of Appeal.[12] In the Order[13] dated May 4, 2009, the Notice of Appeal was given due course by the court a quo, and the records of the case were ordered elevated to this Court.

The Appeal of accused-appellant presented the following assignment of errors:

I

THE TRIAL COURT ERRED IN RULING THAT THE WARRANTLESS ARREST WAS VALID[.]

II

THE TRIAL COURT COMMITTED AN ERROR IN RULING THAT THE SEARCH WAS PERMITTED BEING INCIDENTAL TO A LAWFUL ARREST[.]

III

THE TRIAL COURT FAULTED IN AFFIRMING THE IDENTITY OF THE SEIZED DRUGS DESPITE NON-COMPLIANCE WITH SECTION 21 OF RA 9165[.]

The issues are: a) whether or not there is proof beyond reasonable doubt of the guilt of the accused-appellant for the crime of illegal possession of drugs; and b) whether or not the warrantless arrest and search were valid.

In his Appellant's Brief,[14] accused-appellant strongly asserts that he should have been acquitted because there was no valid arrest under "hot pursuit" and no valid search conducted subsequent to a valid arrest. Accused-appellant contends that there was failure to comply with Section 21, paragraph 1, Article II of Republic Act No. 9165 because the marking was not made at the place where the drug was confiscated, no physical inventory was conducted, and no photographs were taken.

The Republic in its Brief[15] alleges that the prosecution was able to prove beyond reasonable doubt the guilt of accused-appellant as all the elements necessary for his prosecution were present in this case. Further, the Republic claims that accused-appellant was validly arrested and the evidence obtained from him is admissible in evidence. Finally, it is claimed that failure to comply strictly with Section 21 of R.A. No. 9165 is not fatal because there was preservation of the integrity and the evidentiary value of the seized items, and the elements of the crime had been sufficiently proven.

The Ruling of the Court

We deny the appeal.

At the outset, We observe that nowhere in the records do We find any objections by accused-appellant with regard to the irregularity of his arrest before his arraignment.[16] Considering this, and accused-appellant's active participation in the trial of the case, jurisprudence dictates that accused-appellant is deemed to have submitted to the jurisdiction of the trial court, thereby curing any defect in his arrest.

Moreover, the legality of an arrest affects only the jurisdiction of the court over his person.[17] Accused-appellant's warrantless arrest, therefore, cannot, in itself, be the basis of his acquittal.

However, to determine the admissibility of the seized drugs in evidence, it is indispensable to ascertain whether or not the search which yielded the alleged contraband was lawful. Accused-appellant maintains that the two (2) marijuana sticks found in his possession were not a product of a valid search and seizure as an incident of a valid warrantless arrest.

We are not convinced.

Section 5, Rule 113 of the Revised Rules of Criminal Procedure provides the occasions during which a person may be arrested without a warrant. It reads:

Section 5. Arrest without 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 temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

x x x.

From the aforequoted Rule, there are three (3) instances when a warrantless arrest may be lawfully effected: (a) when, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense (arrest in flagrante delicto); (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 (arrest effected in hot pursuit); and (c) when the person to be arrested is a prisoner who has escaped from a penal establishment or a 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 (arrest of escaped prisoners).[18]

Under Section 5(b) of the aforequoted rule, two conditions must concur for a warrantless arrest to be valid: first, the person to be arrested must have just committed an offense, and second, the arresting peace officer or private person must have personal knowledge of facts indicating that the person to be arrested is the one who committed the offense.[19]

Personal knowledge of facts in arrests without a warrant under Section 5(b) of Rule 113 must be based upon “probable cause” which means “an actual belief or reasonable grounds of suspicion.” The grounds of suspicion are reasonable when, in the absence of actual belief of the arresting officers, the suspicion that the person to be arrested is probably guilty of committing the offense is based on actual facts, i.e., supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested. A reasonable suspicion must, therefore, be founded on probable cause, coupled with good faith on the part of the peace officer making the arrest.[20]

Here, the arresting officers had probable cause to effect the warrantless arrest. The testimony of PO3 Ernie disclosed the succeeding incident after the police station received the report of the alleged holdup. Reproduced herein are salient portions of his testimony, viz:[21]

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Q:

What did your team do then after receiving the said alarm?

A:

We responded by immediately proceeding to the area.

Q:

What happened while you went to the said place if any?

A:

On our way to the area we met a woman whom we later identified as Andresa Alburo who was the victim of a robbery.

Q:

You said earlier that you went to the place for a trouble alarm, is that the alarm that you received?

A:

Yes, sir.

Q:

What happened after you met this certain Alburo?

A:

She told us that the person who robbed her was still there, so we gave chase.

Q:

Have you seen the said person when Alburo was telling you that the suspect was around?

A:

Yes, sir.

Q:

How far were you from the suspect at that time?

A:

About five meters sir more or less.

Q:

You mean to say that Alburo was pinpointing the said suspect at that time?

A:

Yes, sir.

Q:

You said that you tried to chase the suspect, were you able to chase him?

A:

Yes, sir.

Q:

After that what happened?

A:

We were able to corner him at Binagayan Street.

Q:

How about Alburo then, where was she at that time?

A:

She was following us.

Q:

After you cornered the suspect what happened next?

A:

We let her identify the suspect and she was able to identify the said person as the one who robbed and mauled her.

Q:

What was robbed from her then?

A:

Her colored brown shoulder bag which contained her Nokia 6600 cellphone, P18,000.00 cash, two (2) gold bracelets and one (1) earring.

Q:

Were you able to recover the said items when you cornered the suspect?

A:

Yes, sir.

Q:

How did you recover the same?

A:

We recovered it from his hand sir.

Q:

Who among you recovered the same?

A:

SPO1 Deligero

Q:

What else have you done to the accused then?

A:

The victim informed us that the accused also robbed her necklace so we conducted a body search on him.

Q:

What happened in that body search?

A:

We were not able to recover the necklace but SPO1 Deligero instead recovered two sticks of marijuana cigarettes from the secret pocket of the accused.

Q:

How far were you when Deligero searched the accused?

A:

Very near sir.

Q:

So you witnessed the same?

A:

Yes, sir.

Prosecution witness SPO1 Deligero also testified on direct examination repeating the same scenario, viz:[22]

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Q:

What happened then?

A:

While proceeding to the said area we met a woman whose face was bleeding and was a victim of robbery.

Q:

After that what happened?

A:

We went to the area and saw the suspect fleeing away.

Q:

How did you know that the said person was the suspect?

A:

Because she [sic] was pinpointed by the victim.

Q:

You mean to say that the victim was with you?

A:

Yes, sir.

Q:

After that what happened?

A:

We chased the suspect sir.

Q:

What happened as you were chasing him?

A:

We were about to corner him at a dead end portion of the street.

Q:

After that, what happened next?

A:

We arrested him and we recovered the articles that were taken from the victim but the victim told us that her gold necklace is missing.

Q:

Then?

A:

We conducted a body search on the suspect thinking that the gold necklace might be hidden somewhere in his pocket.

Q:

How many were you at that time?

A:

We were four police officers and the victim was the 5th person.

Q:

Who among you conducted the body search?

A:

I sir.

Q:

In that search that you conducted, what if any did you recover?

A:

After the body search was conducted the gold necklace was not found. Instead two sticks of marijuana cigarettes were recovered from his secret pocket.

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The case of Cadua v. Court of Appeals[23] is similar to the case at bench. In said case, the police officers responded to a radio dispatch for a call of police assistance for a holdup incident. When they found the complainants at the crime scene, the latter informed the police officers where the robbery took place, in what direction the alleged perpetrators had fled, and what clothes they were wearing. The police officers then requested the complainants to board the patrol unit in order to facilitate the search for the two (2) men, to which the victims agreed. While they were conducting the search on the nearby area, the group saw the accused and the victims were able to identify him. The Supreme Court in said case ruled:

That the victims of the reported robbery failed to pursue a formal complaint is not decisive in this case. What is material is that the officers acted in response to the events which had just transpired and called for the appropriate police response. As to the element of personal knowledge, the officers could not be faulted. It is not correct to say they acted without observing standards of reasonableness and probable cause. They responded promptly to a legitimate complaint of the victims and they had a reasonable suspicion that the persons pointed out at the scene were the perpetrators of the offense. This in itself is sufficient justification for the officers to call the attention of the accused at that point in time when he was identified as a suspect by the complainants.

Just like in the Cadua case, the personal knowledge of the arresting officers in this case came from the victim herself. The records reveal that the police officers were approached by the victim relaying the robbery incident. And she pinpointed to accused-appellant who was then escaping. More importantly, the victim joined them in going after accused-appellant and identified the accused-appellant as the person who took her brown bag and its contents.

Clearly, the two conditions set forth in Section 5(b) were met in the present case: a) there was a robbery incident; and b) the victim herself furnished the necessary “personal knowledge” to the police officers when she relayed to them the robbery incident and her positive identification of accused-appellant as the perpetrator prior to his arrest.

The fact that the victim of the robbery incident was not presented as a prosecution witness is immaterial. Suffice it to say that the prosecution has the prerogative to present the witnesses it needs to meet the quantum of evidence necessary to merit the conviction of the accused.[24]

Considering the circumstances in this case, We find the warrantless arrest of accused-appellant and the incidental search and subsequent seizure of the two (2) marijuana sticks on his person lawful and valid pursuant to Section 13, Rule 126 of the Revised Rules of Criminal Procedure.[25]

More importantly, the prosecution succeeded in establishing, with moral certainty all the elements necessary for the prosecution of illegal possession of drugs: (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 drug.[26] We find that all three (3) elements had been established in the case before Us.

It is a settled rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. It must be emphasized that their testimonies in open court are considered in line with the presumption that law enforcement officers have performed their duties in a regular manner. In the absence of proof of motive to impute falsely a crime as serious as violation of the Comprehensive Dangerous Drugs Act, the presumption of regularity in the performance of official duty, as well as the findings of the trial court on the credibility of the prosecution witnesses, shall prevail over the accused's self-serving and uncorroborated denial.[27]

In the present case, these police officers were just manning their station when they received the trouble alarm. Apparently, without any hesitation, said police officers acted immediately on such information. There was no evidence adduced showing any irregularity in their conduct of responding to said alarm. Neither was there any proof that the prosecution witnesses were impelled by any ill will nor any showing of improper motive against accused-appellant which would raise a doubt as to their credibility.

Notably, the identity of the prohibited drug must be established with moral certainty. Apart from a showing that the elements of possession or sale are present, the fact that the substance illegally possessed in the first place is the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.[28]

In the instant case, the Prosecution convincingly established the identity of the two (2) sticks of marijuana recovered from the person of accused-appellant. There is proof of the whereabouts of these items, from the time these came into the possession of the police officers, to the time the items were tested in the laboratory, and up to the time the sticks were offered in evidence before the court a quo. SPO1 Deligero testified:[29]

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Q:

Who among you conducted the body search?

A:

I sir.

Q:

In that search that you conducted, what if any did you recover?

A:

After the body search was conducted the gold necklace was not found. Instead two sticks of marijuana cigarettes were recovered from his secret pocket.

xxx

Q:

Could you still identify the marijuana cigarettes that you recovered?

A:

Yes, sir.

Q:

How could you identify the same?

A:

Through the marking.

Q:

What are the markings?

A:

CDE 11/23/06-A and the other one CDE 11/23/06-B.

Q:

Who placed the marking?

A:

I sir.

Q:

When and where did you place the marking?

A:

At the office, sir.

xxx

Q:

In going to your station who was in custody of the said evidence?

A:

I sir.

Q:

Aside from the making the markings on the evidence, what else did you do?

A:

I instructed my men to have the evidence examined at the crime laboratory.

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Q:

Do you know who brought this document together with the evidence to the crime laboratory?

A:

I am not sure who was the one but I think it was PO1 Elliot Jr.

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PO1 Macabudbud corroborated the testimony of SPO1 Deligero. PO1 Macabudbud testified that:[30]

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Q:

At your office, what happened then?

A:

At the office, SPO1 Deligero turned over to Ello the evidence – 2 rolled marijuana cigarettes. Then we brought it to the crime laboratory for examination.

Q:

You said Delibero [sic] recovered also 2 sticks of marijuana?

A:

Yes.

Q:

When and where did he recover the same?

A:

I don't know when and where he recovered, but upon reaching the police station, SPO1 turned over to us (Ello and me) 2 rolled marijuana cigarettes.

Q:

What did Deligero tell you when he turned over to you 2 sticks of marijuana?

A:

He said we will bring it to the crime laboratory for examination.

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Q:

Who among you received the said evidence?

A:

PO1 Ello who received.

xxx

Q:

Considering that you were the one who brought the letter request together with the evidence to the PNP Crime Laboratory with Ello, and you said you have seen the same, I'm showing to you Exh. A, a letter request dated November 23, 2006. Could you tell to this Honorable Court the relation of this letter request to the one that you and Ello brought to the crime laboratory?

A:

This is the letter request.

Q:

In the same document, there is a Received stamp. And after the phrase Delivered by, there is a name PO1 Ello, Dioscoro, Jr. and a signature above the same name. Whose signature is this?

A:

PO1 Ello.

Q:

How do you know that is his signature?

A:

Because I was present during the signing.

Q:

So, you have seen Ello placing the signature?

A:

Yes, sir.

Q:

Likewise, you said that Deligero turned to you 2 sticks of marijuana which you delivered to the PNP Crime Laboratory. I'm showing to you 2 sticks of marijuana marked as Exh. B. Could you tell to this Honorable Court the relation of these 2 sticks of marijuana to the one that was turned over to you by Deligero and you and Ello

delivered to the PNP Crime Laboratory?

A:

As I see the marking, this is the one.

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From the records, it appears that SP01 Deligero was in possession of the seized contraband since the same was recovered at the crime scene at about 2:30 o'clock in the afternoon until it was delivered by PO1 Elliot and Macabudbud to the PNP Crime Laboratory at 5:00 o'clock in the afternoon of the same day.

Clearly, there are no missing links, from the point when the marijuana sticks were allegedly recovered from the possession of accused-appellant by the police, to the point when the same was placed in the custody of the crime laboratory for examination, which could raise a doubt as to the integrity of the drug allegedly owned by accused-appellant.

Furthermore, jurisprudence teems with pronouncements that failure to strictly comply with Section 21(1), Article II of R.A. No. 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.[31]

Moreover, it must not be forgotten that the integrity of the evidence is presumed to be preserved, unless there is a showing of bad faith or ill will, or proof that the evidence has been tampered with. Accused-appellant, in this case, bears the burden to make some showing that the evidence was tampered or meddled with, to overcome the presumption of regularity in the handling of exhibits by public officers and a presumption that they properly discharged their duties.[32] Sadly, for accused-appellant, his evidence did not successfully overcome the presumption in favor of the police officers.

The testimonies of PO3 Ernie, SPO1 Deligero, and PO1 Macabudbud, together with the object and documentary evidence, are consistent and sufficient in establishing the accused-appellant's guilt of the crimes charged. This evidence had correctly been utilized as basis of the court a quo. Well-settled is the rule that the findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect and weight, in the absence of any clear showing that some facts and circumstances of weight or substance which could have affected the result of the case have been overlooked, misunderstood or misplaced.[33] Further, trial courts have the distinct advantage of observing the demeanor and conduct of witnesses during trial.[34]

To rebut the overwhelming evidence for the prosecution, accused-appellant interposed the defense of denial and frame-up, which, like alibi, has been invariably viewed with disfavor for it can easily be concocted and is a common defense ploy in most prosecutions for violation of the Dangerous Drugs Act. In order to prosper, the defenses of denial and frame-up must be proved with strong and convincing evidence.[35] It must be recalled that once the prosecution overcomes the presumption of innocence by proving the elements of the crime and the identity of the accused as perpetrator beyond reasonable doubt, the burden of evidence then shifts to the defense which shall then test the strength of the prosecution's case either by showing that no crime was in fact committed or that the accused could not have committed or did not commit the imputed crime, or at the very least, by casting doubt on the guilt of the accused.[36] Nothing in the testimony of accused-appellant could convincingly thwart the positive evidence of the prosecution pointing to his guilt.

In sum, We find that the Prosecution has proven the guilt of accused-appellant of the crime as charged, beyond reasonable doubt. Similarly, the corpus delicti was presented as evidence in court and was identified with

unwavering exactitude.

The penalty of imprisonment from twelve (12) years and one (1) day, as minimum, to fifteen (15) years, as maximum, and a fine of P300,000.00 imposed upon by the court a quo is in order.

WHEREFORE, the Appeal is DENIED. The Decision dated January 5, 2009 of Branch 58, Regional Trial Court of Cebu City in Criminal Case No. CBU-78530 is AFFIRMED.

SO ORDERED.

Maxino, (Acting Chairperson), and Lagura-Yap, JJ., concur.

* Vice Justice Delos Santos who inhibited himself from the case per his letter to the Raffle Committee dated February 28, 2013.

[1] Records, p. 88.

[2] Records, p. 1.

[3] Ibid., p. 14.

[4] TSN dated November 27, 2007, pp. 3-8, TSN dated June 10, 2008, pp. 3-6, TSN dated July 29, 2008, pp. 3-6.

[5] Records, p. 71 (Exhibit "C").

[6] TSN dated September 16, 2008, pp. 3-6.

[7] Supra, Note 1.

[8] Records, p. 96.

[9] Ibid., p. 112.

[10] Ibid., p. 114.

[11] Ibid., p. 118.

[12] Ibid., p. 120.

[13] Ibid., p. 122.

[14] Rollo, p. 27.

[15] Ibid., p. 62.

[16] See Section 26, Rule 114, Revised Rules of Criminal Procedure.

[17] People v. Bacla-an, G.R. No. 132042, February 19, 2003, citing People v. Lagarto, G.R. No. 133925, November 29, 2000, People v. Nitcha, G.R. No. 113517, January 19, 1995. See also People v. Kimura, G.R. No. 130805, April 27, 2004.

[18] People v. Molina, G.R. No. 133917, February 19, 2001, citing People v. Chua Ho San, 308 SCRA 432, 443 [1999].

[19] People v. Mahusay, G.R. No. 91483, November 18, 1997, citing Umil v. Ramos, 202 SCRA 251 [1991].

[20] People v. Escordial, G.R. Nos. 138934-35, January 16, 2002, citing Posadas v. Ombudsman, 341 SCRA 388,

397.

[21] TSN dated November 27, 2007, pp. 3-5.

[22] TSN dated June 10, 2008, pp. 3-4.

[23] G.R. No. 123123, August 19, 1999.

[24] People v. De Guzman, G.R. Nos. 117952-53, February 14, 2001, citing People v. Navaja, 220 SCRA 632, G. R. No. 104044, March 30, 1993; People v. Alcartado, 261 SCRA 291, G.R. No. 119070, Aug. 30, 1996.

[25] Sec. 13. Search incident to lawful arrest. - A person lawfully arrested may be searched for dangerous weapons or anything which may be used as proof of the commission of an offense, without a search warrant.

[26] People v. Climaco, G.R. No. 199403, June 13, 2012, citing People v. Alcuizar, G.R. No. 189980, April 6, 2011.

[27] David v. People, G.R. No. 181861, October 17, 2011, citing People v. Fabian, G.R. No. 181040, March 15, 2010.

[28] People v. Lorenzo, G.R. No. 184760, April 23, 2010.

[29] TSN dated June 10, 2008, pp. 4-5.

[30] TSN dated July 29, 2008, pp. 4-6.

[31] People v. Cardenas, G. R. No. 190342, March 21, 2012, citing Zalameda v. People of the Philippines, G.R. No. 183656, September 4, 2009.

[32] People v. Mondejar, G.R. No. 193185, October 12, 2011, citing People v. Hernandez, G.R. No. 184804, June 18, 2009.

[33] Valdez v. People, G.R. No. 170180, November 23, 2007, citing People v. Bacala-an, 445 Phil. 729, 746 [2003].

[34] People v. Nicolas, G.R. No. 170234, February 8, 2007.

[35] People v. Amansec, G.R. No. 186131, December 14, 2011, citing People v. Lazaro, Jr., G.R. No. 186418, October 16, 2009.

[36] People v. Dela Rosa, G.R. No. 185166, January 26, 2011, citing People v. Rosialda, G.R. No. 188330, August 25, 2010.

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