

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JASON NUÑEZ, ACCUSED-APPELLANT.

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HERNANDO, J:

Before Us is an Appeal[1] from the Judgment[2] dated November 8, 2012 rendered by the Regional Trial Court (RTC), Branch 57 of Cebu City in Crim. Case No. CBU-86353 finding accused-appellant Jasen Torres Nuñez guilty beyond reasonable doubt for Violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002.” The dispositive portion of the assailed Decision reads:

WHEREFORE, in view of the foregoing, accused JASEN TORRES NUÑEZ is found guilty beyond reasonable doubt of Violation of Section 5, Article II of RA 9165 and is sentenced to suffer the penalty of life imprisonment and a fine of P500,000.00.

The packet of shabu is forfeited in favor of the government.

SO ORDERED.[3]

The Antecedents:

Accused-appellant was charged with a Violation of Section 5, Article II of R.A No. 9165 in an Information[4] dated June 15, 2009, the accusatory portion of which reads:

That on or about the 29[th] day of May, 2009, at about 1:00 o'clock in the afternoon, 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) heat sealed transparent plastic sachet of white crystalline substance weighing 0.02 grams, locally known as shabu, containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.

When accused was arraigned on July 16, 2009 in the Cebuano-Visayan dialect and with the assistance of counsel, he entered a plea of not guilty.[5] After the pre-trial was terminated, trial on the merits ensued.[6]

To establish the guilt of accused Jasen Nuñez, the prosecution presented Police Officers Yvien Trangia and Joel Cunan. The testimony of P/Supt. Mutchit Salinas, Forensic Chemical Officer, was dispensed[7] with after the parties made some stipulations and admissions with respect to her testimony.

Version of the Prosecution

In the morning of May 29, 2009, a confidential informant went to the Police Station 2 located in Fuente (Osmeña), Cebu City and reported the alleged illegal drug activities of accused Jasen T. Nuñez in Sitio Pailub, Sambag II, Cebu City. The informant asserted that for several times before, he had been buying shabu from said accused.

In response to said information, a police team, headed by PO2 Joel Cunan, was immediately organized to conduct

a buy-bust operation on accused Nuñez at the reported place. At around 1:00 in the afternoon, a short briefing was conducted and PO2 Trangia was designated to act as poseur buyer together with the confidential informant/police asset while PO2 Cunan and another police officer, PO1 Eborlas, were to serve as police back-up. PO2 Trangia and the police asset were tasked to buy from accused a pack of shabu worth Php200.00. Considering that it was the police asset who knew the accused, the two Php100.00 peso bills to be used as buy-bust money were given to him. Prior to the conduct of the planned buy-bust operation against accused, the team coordinated with the Philippine Drug Enforcement Agency (PDEA).

The team, on board their marked vehicle, proceeded to the target place. When they arrived there, the vehicle was parked at a distance where it cannot be seen. PO2 Trangia and the police asset walked to the interior portion ahead of the other police officers, PO2 Cunan and PO1 Eborlas, who later followed the two and strategically positioned themselves.

Upon seeing accused, PO2 Trangia and the police asset approached him. The police asset then informed accused regarding their intention to buy shabu from him. Thereafter, the police asset gave the buy bust money to the accused, who, after receiving it, approached a person who was about three (3) to four (4) meters away from them (later identified as a certain Ramil Satiembre) and handed to him the buy-bust money. In exchange, Satiembre gave a pack of suspected shabu to accused who then delivered the same to PO2 Trangia. At that point, PO2 Trangia executed their pre-arranged signal by touching his head using his right hand.

Subsequently, the back-up police officers rushed to the area and arrested accused. The other person, Ramil Satiembre, however, was able to elude arrest. Immediately after, PO2 Cunan apprised accused of his constitutional rights and informed him of the offense that he had committed. Accused was also bodily searched but nothing was further recovered from him. Still at the crime scene, PO2 Trangia turned over the plastic pack containing suspected shabu to PO2 Cunan. The accused, together with the confiscated item, was then brought to the police station. On their way, the seized item remained in the custody of PO2 Cunan.

At the police station, PO2 Cunan marked the recovered plastic pack containing white crystalline substance with the initials "JN", representing accused Jasen Nuñez. Thereafter, PO2 Cunan took a photograph of the pack containing suspected shabu, conducted inventory on the seized item, recorded the arrest incident in the police blotter and prepared a letter-request for laboratory examination. PO2 Cunan then submitted the recovered item with the letter-request to the PNP Crime Laboratory for laboratory examination. The letter-request for examination and the plastic pack containing white crystalline substance were received by Police Officer Tero of the PNP Crime Laboratory. When the specimen was subjected to a laboratory examination by the Forensic Chemical Officer, P/Supt. Mutchit Salinas, it yielded positive for the presence of methamphetamine hydrochloride, commonly known as shabu as shown in the Chemistry Report No. D-523-2009 issued by said officer. Thereafter, the subject specimen and the other necessary documents were submitted by the Forensic Chemist to their Evidence Custodian who later turned them over to the Prosecution for their presentation in court.

Version of the Defense

Accused Jasen Nuñez interposed the defense of denial. In court, he declared that at the time of his supposed arrest, he was eating at the eatery of a certain Arlene Abella which is located near his house. Present therein were his neighbors, Abadin Flores and Belen Abella. According to accused, while he was eating, three persons who turned out to be police officers, approached and held him. The three men were looking for Ramil Satiembre from whom they alleged to have bought shabu and claimed to be accused's companion. Accused asserted to the police officers that there was no person named Ramil Satiembre in that place, although he knew persons with the family name Satiembre, namely, Richard, Jojo and Rene. Accused was nonetheless brought to the police station and was told

that he would only be released if he could be able to buy shabu from Ramil Satiembre. Accused maintained that there was no buy bust operation conducted against him as he was only eating when he was arrested and that he was never engaged in any transaction involving illegal drugs.

On November 8, 2012, the court a quo rendered its assailed Judgment convicting accused for Violation of Section 5, Article II of R.A. No. 9165. The trial court found that all the elements of the crime charged were present and that the prosecution's evidence had satisfactorily established accused's guilt beyond reasonable doubt. It disregarded accused's defense of bare denial as it cannot outweigh the direct and positive statements of the officers with respect to accused's culpability.

Hence, this appeal by the accused-appellant anchored on a lone assignment of error:

The Assigned Error:[8]

I.

THE COURT A QUO GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The Court's Ruling:

The appeal lacks merit.

Prosecutions involving illegal drugs largely depend on the credibility of police officers serving as prosecution witnesses. When a case involves violation of the Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there be evidence to the contrary.[9]

Here, the trial court, in ruling for appellant's conviction, relied heavily on the positive and categorical declarations of the prosecution witnesses and rejected appellant's defense of bare denial. It also declared that there could be no reason for the police officers to concoct a charge against appellant as there was no evidence to show that the former were impelled by ill motive in testifying against him.

Generally, the rule is that factual findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of their probative weight are given high respect if not conclusive effect, unless the trial court ignored, misconstrued, misunderstood or misinterpreted cogent facts and circumstances of substance, which, if considered, will alter the outcome of the case.[10]

Appellant asserts that the instant case falls under the above-cited exception. In support of his assertion, he highlights the purported inconsistencies and contradictions in the testimonies of the prosecution witnesses which accordingly render suspect whether the buy bust operation indeed took place. Appellant points out that during the direct examination of PO2 Trangia, the latter declared that it was he who received the shabu from appellant. But on cross-examination, PO2 Trangia contradicted himself by stating that it was the asset who received the shabu from appellant. Moreover, appellant also reveals the inconsistent statements of PO2 Cunan during his direct and re-direct examination as to who actually called up the office of the PDEA, whether it was PO2 Cunan himself or PO1 Eborlas.

We are unconvinced.

As correctly adverted to by appellee People, through the Office of the Solicitor General (OSG), the inconsistencies claimed by appellant pertain only to minor and trivial matter which do not necessarily diminish the credibility of the witnesses nor detract from the fact that the buy-bust operation was indeed conducted by the

police officers.

Criminal law jurisprudence invariably holds that inconsistencies in the testimonies of witnesses on minor details do not impair their credibility.[11] Minor inconsistencies in the narration of witnesses do not detract from their essential credibility as long as their testimony on the whole is coherent and intrinsically believable.[12] Inaccuracies may in fact suggest that the witnesses are telling the truth and have not been rehearsed.[13] Witnesses are not expected to remember every single detail of an incident with perfect or total recall.[14] The witnesses' testimonies need only to corroborate one another on material details surrounding the actual commission of the crime.[15]

In Our view, the prosecution witnesses in this case corroborated each other on material points. The inconsistent statements pointed by appellant refer only to minor details which were not so vital and of such significance as would discredit the entire testimonies of the two police officers as the same do not actually pertain to matters constituting the elements of the crime. Whether the pack of shabu was first given by appellant to the police asset or directly to PO2 Trangia and that it was PO2 Cunan or PO1 Eborlas who actually called the PDEA office, are matters that are not so important in proving the commission of the crime. Rather, what is material is the fact that the sale of illegal drugs was actually consummated and that the same was clearly and undoubtedly established by the prosecution, as would be later discussed. Also, it bears emphasis that what is important is the fact that said shabu was, nevertheless, placed in the possession of PO2 Trangia evincing the consummation of the illegal transaction or sale.

It is not irregular for police officers to have inconsistent statements in the narration of details of the buy-bust operation, as, indeed the inconsistency can indicate truthfulness.[16] What is important is for them to recount the material facts constituting sale of dangerous drug such as the exchange of the illegal drug for buy-bust money and identification of the buyer, seller and illegal drug in court as the object of the sale.[17]

We reiterate that for the successful prosecution of illegal sale of dangerous drugs, the following elements must be established: (1) the identity of the buyer and the seller, the object and consideration; and (2) the delivery of the thing sold and the payment therefor.[18] What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti.[19] The delivery of the contraband to the poseur-buyer and the receipt of the marked money consummate the buy-bust transaction between the entrapping officers and the accused.[20] In other words, the commission of the offense of illegal sale of dangerous drugs, like shabu, merely requires the consummation of the selling transaction, which happens the moment the exchange of money and drugs between the buyer and the seller takes place.[21]

Here, the above-enumerated elements have been amply proven and established by the prosecution. PO2 Trangia, who acted as the poseur-buyer, categorically testified in court the circumstances surrounding the conduct of the buy-bust operation, from the time he and the police asset approached the appellant to the time when appellant agreed to the sale of illegal drugs to them, as well as the actual exchange of the buy-bust money and the heat-sealed sachet containing a white crystalline substance, and until the apprehension of appellant. The narration of PO2 Trangia is worth reiterating, viz:

Q:

Do you recall where were you on May 29, 2009 at around 1:00 o'clock in the afternoon?

A:

I was on duty at Police Station 2, sir, and we conducted a buy bust operation at Sitio Pailub.

Q:

What barangay is Sitio Pailub situated?

A:

Sambag 2, Cebu City, sir.

Q:

Before going to that place, was there any meeting conducted by you and your companions?

A:

We had a short briefing before going to the area, sir.

Q:

Who was with you during the briefing?

A:

It was PO2 Cunan and PO1 Eborlas together with the asset, sir.

Q:

During the short briefing, who was the person designated as the poseur buyer?

A:

It was me who was designated as poseur buyer, sir.

x x x x x x x x

Q:

How much amount you and your companions agreed to buy shabu?

A:

P200.00, sir.

x x x x x x x x

Q:

Then, what happened there?

A:

When we reached the area, sir, with me was the asset and we saw the subject at Sitio Pailub.

Q:

Who is the subject are you referring to?

A:

Jasen Nuñez, sir.

Q:

Is Jasen Nuñez inside the courtroom now?

A:

Yes, sir.

x x x x x x x x

INTERPRETER:

From the witness stand the witness points to a person inside the courtroom, when asked of his name answered Jasen Nuñez.

x x x x x x x x

Q:

Now upon seeing Jasen Nuñez in the place that you mentioned, what did you and your asset do?

A:

We transacted that we are going to buy shabu, sir.

Q:

What is his answer after saying that you are going to buy shabu?

A:

He got the money and then he walked about three (3) to four (4) meters away and there was a person where he handed the money and from that person also he got the shabu, sir.

Q:

Then after that what did he do after receiving the shabu from the person?

A:

He went back to our position and he handed to me a pack of shabu, sir.

Q:

By the way, who gave the money to the accused, you or the asset?

A:

The asset, sir.

x x x x x x x x

Q:

Where did the asset receive the money?

A:

From our team leader, sir.

x x x x x x x x

Q:

Now when the accused delivered to you the shabu, what did you do?

A:

I executed the pre-arranged signal, by touching my head with my right hand, sir.

Q:

Then after doing that what happened next?

A:

My companions, PO2 Cunan and PO1 Eborlas rushed to our position, sir.

Q:

After that what happened?

A:

We were able to arrest Jasen Nuñez, sir, but the other person whom we later knew as Ramil Satiembre fled away.

Q:

Is this Ramil Satiembre, the one who received the money and the one who delivered the shabu to accused Jasen Nuñez?

A:

Yes, sir.

Q:

What did you do to the accused after arresting him?

A:

We informed him of his constitutional rights, sir.

Q:

What else, aside from that?

A:

We also informed him of his offense and after that we brought him to our police station, sir.[22] (Emphasis supplied)

This testimony was amply corroborated on material points by PO2 Joel Cunan when he testified that:

Q:

Now on May 29, 2009 at around 1:00 o'clock in the afternoon, do you recall where were you and what were you doing during that particular date and time?

A:

We were in our office at Police Station 2, Fuente Police Station, sir.

Q:

What were you doing at Police Station 2?

A:

We were preparing ourselves together with the team to conduct a buy bust operation, sir.

Q:

And who was the subject of the buy bust operation?

A:

A certain Jasen Nuñez, sir.

Q:

What is your role in that planned buy bust operation against Jasen Nunñez?

A:

I was the team leader of the team, sir.

x x x x x x x x

Q:

So, after the briefing, were did you go?

A:

After the briefing, we went to Sitio Pailob, Sambag I, Cebu City, sir.

x x x x x x x x

Q:

So, upon arrival at Sitio Pailob, Sambag I, what happened?

A:

We just walked in going to Sitio Pailob, sir, because we parked our vehicle in the vicinity of Sitio Pailob where we cannot be seen.

x x x x x x x x

Q:

So, when you proceeded to the interior portion, who was the one walking ahead?

A:

PO1 Trangia went ahead of us, sir, and we were left behind. In order that we cannot be seen, we hid ourselves so that the subject could not see us and we made sure that we can see the transaction.

Q:

So, did your poseur buyer able to meet the subject?

A:

Yes, sir.

Q:

From the time the subject and your poseur buyer met together and the asset, did you observe it?

A:

Yes, we clearly saw them, sir.

Q:

So, what did you observe in the place where the poseur buyer, the subject of the buy bust and the asset met?

A:

We saw the police asset handed the buy bust money to the subject, Jasen Nuñez, sir.

Q:

So, after that what happened next?

A:

And then after that the subject, Jasen Nuñez, walked about three (3) meters and handed the money given by the police asset to the other person, sir.

Q:

So, after the person received the money from the subject, what did you do?

A:

When the police asset handed the money to Jasen Nuñez, sir, Jasen Nuñez walked about three (3) meters and he gave the buy bust money to the other person and the said person, after receiving the money from Jasen Nuñez got something and gave it to Jasen Nuñez.

Q:

So, when Jasen Nuñez received that something given by the other person, what did you do next?

A:

Jasen Nuñez went back and gave that something to police officer Trangia, sir.

Q:

So, when police officer Trangia received from Jasen Nuñez that something, what did police officer Trangia do next?

A:

He made the pre-arranged signal by tapping his head using his right hand, sir.

Q:

After that what happened next?

A:

We rushed to their position and then arrested Jasen Nuñez, also we ran after the person, who gave the item to Jasen Nuñez, which we later known as Ramil Satiembre, sir.

Q:

Now were you able to arrest Ramil Satiembre?

A:

Unfortunately, we were not able to arrest Ramil Satiembre, sir.

Q:

So, since you failed to arrest Ramil Satiembre, what did you do next?

A:

We brought the arrested person Jasen Nuñez to our office, sir, but before we brought him, we informed him of his rights and his violation.[23]

Appellant also asserts that the purported buy bust operation conducted against him, if there was any, was not a valid entrapment but an instigation. He maintains that there was never any offer coming from him for the sale of shabu and that the criminal intent actually originated from the asset. He points out that were it not for the asset's offer to purchase shabu, he would not have secured one for the asset to buy. Further, appellant contends that if he was indeed in the business of peddling illegal drugs, he would have possessed packets of shabu ready to be disposed for sale but there was none. In fact, appellant had to secure a sachet of shabu from another person for the purported sale. Appellant also assails the failure of the police officers to conduct a prior surveillance or test buy against him which could give the police officers a conclusive assurance that indeed he was engaged in selling illegal drugs.

The appellee People counters that appellant was known to have been engaged in selling illegal drugs for quite some time even prior to the buy-bust operation on May 29, 2009. In fact, the police asset who participated in the buy-bust operation had bought shabu from appellant several times in the past. Necessarily, there would be no instigation as no one induced appellant to commit the offense.

The argument of the People on the matter is well-taken.

There is a definite distinction between instigation and entrapment.[24] In *People v. Bayani* cited in *People v. Bartolome*[25], the Supreme Court highlighted the distinction and held that:

Instigation is the means by which the accused is lured into the commission of the offense charged in order to prosecute him. On the other hand, entrapment is the employment of such ways and means for the purpose of trapping or capturing a lawbreaker. Thus, in instigation, officers of the law or their agents incite, induce, instigate or lure an accused into committing an offense which he or she would otherwise not commit and has no intention of committing. But in entrapment, the criminal intent or design to commit the offense charged originates in the mind of the accused, and law enforcement officials merely facilitate the apprehension of the criminal by employing ruses and schemes; thus, the accused cannot justify his or her conduct. In instigation, where law enforcers act as co-principals, the accused will have to be acquitted. But entrapment cannot bar prosecution and conviction. As has been said, instigation is a “trap for the unwary innocent,” while entrapment is a “trap for the unwary criminal.”

As a general rule, a buy-bust operation, considered as a form of entrapment, is a valid means of arresting violators of Republic Act No. 9165. It is an effective way of apprehending law offenders in the act of committing a crime. In a buy-bust operation, the idea to commit a crime originates from the offender, without anybody inducing or prodding him to commit the offense.

A police officer's act of soliciting drugs from the accused during a buy-bust operation, or what is known as a “decoy solicitation,” is not prohibited by law and does not render invalid the buy-bust operations. The sale of contraband is a kind of offense habitually committed, and the solicitation simply furnishes evidence of the

criminal's course of conduct. In *People v. Sta. Maria*, the Court clarified that a "decoy solicitation" is not tantamount to inducement or instigation:

It is no defense to the perpetrator of a crime that facilities for its commission were purposely placed in his way, or that the criminal act was done at the "decoy solicitation" of persons seeking to expose the criminal, or that detectives feigning complicity in the act were present and apparently assisting its commission. Especially is this true in that class of cases where the offense is one habitually committed, and the solicitation merely furnishes evidence of a course of conduct.

As here, the solicitation of drugs from appellant by the informant utilized by the police merely furnishes evidence of a course of conduct. The police received an intelligence report that appellant has been habitually dealing in illegal drugs. They duly acted on it by utilizing an informant to effect a drug transaction with appellant. There was no showing that the informant induced the appellant to sell illegal drugs to him.

Conversely, the law deplores instigation or inducement, which occurs when the police or its agent devises the idea of committing the crime and lures the accused into executing the offense. Instigation absolves the accused of any guilt, given the spontaneous moral revulsion from using the powers of government to beguile innocent but ductile persons into lapses that they might otherwise resist.

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In recent years, it has become common practice for law enforcement officers and agents to engage in buy-bust operations and other entrapment procedures in apprehending drug offenders, which is made difficult by the secrecy with which drug-related offenses are conducted and the many devices and subterfuges employed by offenders to avoid detection. On the other hand, the Court has taken judicial notice of the ugly reality that in cases involving illegal drugs, corrupt law enforcers have been known to prey upon weak, hapless and innocent persons. The distinction between entrapment and instigation has proven to be crucial. The balance needs to be struck between the individual rights and the presumption of innocence on one hand, and ensuring the arrest of those engaged in the illegal traffic of narcotics on the other.

Thus, in that *People v. Bartolome* case, the High Court declared that:

Applying the foregoing, we declare that the accused was not arrested following an instigation for him to commit the crime. Instead, he was caught in flagrante delicto during an entrapment through buy-bust. In a buy-bust operation, the pusher sells the contraband to another posing as a buyer; once the transaction is consummated, the pusher is validly arrested because he is committing or has just committed a crime in the presence of the buyer. Here, Paras asked the accused if he could buy shabu, and the latter, in turn, quickly transacted with the former, receiving the marked bill from Paras and turning over the sachet of shabu he took from his pocket. The accused was shown to have been ready to sell the shabu without much prodding from Paras. There is no question that the idea to commit the crime originated from the mind of the accused.

Similarly in the present case, it was indisputably shown that appellant was caught red-handed committing the offense of illegal sale of dangerous drugs during a buy-bust operation conducted against him. There could have been no instigation to speak of considering that appellant, per information from a police asset, had already been engaged in selling drug as in fact the latter had bought shabu from appellant several times before. And, it was on the basis of this information that the police officers conducted a buy-bust operation against appellant. It is likewise noteworthy that the buy-bust money was given to the police asset considering that the latter had been known to appellant as his buyer.

In like manner, the absence of a prior surveillance did not render the buy-bust operation irregular or illegal. It has been held that prior surveillance is not necessary to render a buy-bust operation legitimate, especially when the buy-bust team is accompanied to the target area by the informant.[26] Also, while appellant had no on-hand item

ready for sale at that time, it does not necessarily mean that he was instigated or lured into producing a sachet of shabu. Quite perplexing too is the presence of Satiembre from whom appellant took a sachet of shabu at the time of the transaction. Concededly, a reasonable presumption arises that the two may have been partners in several illegal transactions involving illicit drugs. Be that as it may, the certainty that appellant facilitated and transacted the sale of illegal drugs undoubtedly made him a seller thereof.

Finally, appellant's arguments that there was failure to establish an unbroken chain of custody of the seized item as there was no proper marking thereof at the place of the arrest and that there was non-compliance with the requirements set forth in Section 21, par. 1, Article II of R.A. No. 9165, deserve scant consideration.

In the present case, it must be recalled that right after the illegal sale took place, PO2 Trangia made the pre-arranged signal by touching his head using his right hand. This prompted the back-up police officers to rush to the area and arrest the appellant. Satiembre, however, was able to elude arrest. The illicit drug which was in the possession of PO2 Trangia was later turned over to PO2 Cunan while they were still in the crime scene.[27] Thereafter, appellant and the seized drug were brought to the police station and on their way, PO2 Cunan remained[28] in possession of the illicit drug. At the station, PO2 Cunan marked it with the initials "JN" representing appellant Jasen Nuñez.[29] PO2 Cunan then took photograph[30] of the pack containing suspected shabu; conducted an inventory[31] on the seized item; recorded the arrest incident in the police blotter[32] and prepared a letter-request for laboratory examination of the subject drug.[33] Subsequently, PO2 Cunan submitted the subject drug and the letter-request to the PNP Crime Laboratory which were received by a certain Police Officer I Tero.[34] Thereafter, P/Insp. Mutchit Salinas conducted a laboratory examination on the specimen submitted and the result yielded positive for the presence of methamphetamine hydrochloride, or commonly known as shabu as shown in the Chemistry Report No. D-523-2009[35]. The subject specimen and the other necessary documents were then submitted by the Forensic Chemist to their Evidence Custodian for safekeeping and were later turned over to the Prosecution for their presentation in court.[36]

The foregoing facts evidently show that the prosecution has properly established the whereabouts of the illegal drug from the time it came into possession of the apprehending officers, during its testing in the laboratory to determine its composition and up to the time it was offered in evidence.[37]

Also, it has already been settled that the failure of police officers to mark the items seized from an accused in illegal drugs cases immediately upon its confiscation at the place of arrest does not automatically impair the integrity of the chain of custody and render the confiscated items inadmissible in evidence.[38] In *People v. Resurreccion*[39], the Court explained that "marking" of the seized items "immediately after seizure and confiscation" may be undertaken at the police station rather than at the place of arrest for as long as it is done in the presence of an accused in illegal drugs cases.

Admittedly, while there was no strict observance of the procedure by the police officers in the present case, there was, nonetheless, substantial compliance thereof. The Supreme Court has already ruled in several cases that the failure of the arresting officer to comply strictly with Section 21 of Republic Act No. 9165 is not fatal.[40] It will not render the arrest of the accused illegal or the items seized or confiscated from him inadmissible.[41] What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.[42] As already discussed, the integrity and the evidentiary value of the illicit drug in the present case was properly preserved from the time it was recovered until its presentation before the trial court.

In fine, appellant's guilt for the offense charged had been indisputably proven by the prosecution beyond any shadow of doubt.

WHEREFORE, in the light of the foregoing, the instant appeal is DENIED for lack of merit. The assailed Decision dated November 8, 2012 of the Regional Trial Court, Branch 57 of Cebu City in Crim. Case No. CBU-86353 is hereby AFFIRMED. No pronouncement as to cost.

SO ORDERED.

Quijano-Padilla, and Azcarraga-Jacob, JJ., concur.

[1] Record, p. 102.

[2] Penned by Presiding Judge Enriqueta Loquillano-Belarmino; Record, pp. 94-97.

[3] Ibid. p. 97.

[4] Record, pp. 1-2.

[5] Record, per Certificate of Arraignment, p. 16.

[6] Record, per Order dated July 16, 2009, p. 14.

[7] Per Order dated February 11, 2010; Transcript of Stenographic Notes (TSN), February 11, 2010, p. 5.

[8] Brief for the Accused-Appellant; Rollo, p. 10.

[9] People v. Fernandez, G.R. No. 188841, March 6, 2013.

[10] People v. Araneta and Santos, G.R. No. 191064, October 20, 2010.

[11] People v. Fernandez, G.R. No. 188841, March 6, 2013.

[12] People v. Langcua, G.R. No. 190343, February 6, 2013.

[13] Ibid.

[14] Ibid.

[15] Ibid.

[16] People v. Langcua, G.R. No. 190343, February 6, 2013.

[17] Ibid.

[18] People v. Brainer, G.R. No. 188571, October 10, 2012.

[19] Ibid.

[20] Ibid.

[21] Ibid.

[22] Transcript of Stenographic Notes (TSN), June 17, 2010, pp. 4-11.

[23] TSN, August 4, 2011, pp. 5-11.

[24] People v. Bartolome, G.R. No. 191726, February 06, 2013.

[25] Ibid. citing People v. Bayani, G.R. No. 179150, June 17, 2008.

[26] People v. Bartolome, G.R. No. 191726, February 06, 2013.

[27] TSN, August 4, 2011, p. 12.

[28] Ibid.

[29] Ibid.

[30] Exh. "D"; Record, p. 9.

[31] Exh. "E"; Record, p. 10.

[32] Exh. "F"; Record, pp. 6-7.

[33] TSN, August 4, 2011, pp. 13-19.

[34] Per letter-request, Exh. "A"; Record, p. 64.

[35] Exh. "C"; Record, p. 65.

[36] Per stipulations and admissions made by the parties; TSN, February 11, 2010, p. 4.

Pros. Sanchez: That subsequently Mutchit Salinas deposited the object evidence, letter request and Chemistry Report to their Evidence Custodian.

Atty. Asjali: Admitted, Your Honor.

Pros. Sanchez: And in turn the Evidence Custodian submitted the object evidence, letter request and Chemistry Report to herein representation.

Atty. Asjali: Admitted, Your Honor.

[37] People v. Langcua, G.R. No. 190343, February 06, 2013.

[38] People v. Dumalag, G.R. No. 180514, April 17, 2013.

[39] G.R. No. 186380, October 12, 2009 cited in People v. Dumalag, supra.

[40] People v. Brainer, G.R. No. 188571, October 10, 2012.

[41] Ibid.

[42] Ibid.

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