

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUDITH COLALJO CALONGCONG, ACCUSED-APPELLANT.

Ponente: HERNANDO, J.

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HERNANDO, J.:

Before Us is an Appeal[1] from the Joint Judgment[2] dated August 31, 2012 rendered by the Regional Trial Court (RTC), Branch 30 of Dumaguete City, Negros Oriental in Crim. Case Nos. 20566 and 20565, finding accused-appellant Judith Colaljo Calongcong guilty beyond reasonable doubt for Violation of Sections 5 and 11, 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 Joint Judgment reads:

WHEREFORE, in the light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 20566, the accused Judith Colaljo Calongcong is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 0.09 gram of shabu in violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (Php500,000.00).

The one (1) heat-sealed transparent plastic sachet containing 0.09 gram of shabu is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 20565, the accused Judith Colaljo Calongcong is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 0.6 gram of shabu in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (Php400,000.00).

The four (4) heat-sealed transparent plastic sachets containing an aggregate total of 0.6 gram of shabu are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused Judith Colaljo Calongcong shall be credited with the full time during which she has undergone preventive imprisonment, provided she agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.[3]

The Antecedents:

Accused-appellant Judith Colaljo Calongcong was charged with Violation of Sections 5 and 11, Article II of R.A. No. 9165 in two separate Informations[4] both dated July 2, 2011, the accusatory portions of which respectively read as follows:

Criminal Case No. 20566:

That on or about the 1[st] day of July, 2011 in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, JUDITH COLALJO CALONGCONG, without authority of law and

legal justification, did, then and there willfully, unlawfully and feloniously sell, deliver and give to a poseur buyer one (1) heat-sealed transparent plastic sachet containing white crystalline substance weighing 0.09 gram which substance after examination conducted on specimen was found positive to the test of Methamphetamine Hydrochloride, also known as shabu, a dangerous drug, in violation of Republic Act No. 9165.

Contrary to Sec. 5, Article II of Republic Act No. 9165.

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Criminal Case No. 20565:

That on or about the 1[st] day of July, 2011 in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, JUDITH COLALJO CALONGCONG without authority of law and legal justification, did, then and there willfully, unlawfully and feloniously possess or have under her custody and control four (4) pieces of transparent plastic sachets containing white crystalline substances weighing 0.33 grams, which substances after examination conducted on specimen were found positive to the test of Methamphetamine Hydrochloride, also known as shabu, a dangerous drug, in violation of Republic Act No. 9165.

Contrary to Sec. 11 Article II of Republic Act No. 9165.

x x x x x x x x

When arraigned[5] on September 30, 2011 in a language known to her and duly assisted by her counsel, accused pleaded not guilty to the crimes charged against her. Thereafter, joint preliminary conference was conducted.[6] After the pre-trial stage was terminated, joint trial on the merits ensued.[7]

Version of the Prosecution

The prosecution presented Department of Justice (DOJ) representative Anthony Chilius Benlot, Police Chief Inspector Josephine Llana (PCI Llana), Intelligence Officer I Julieta Amatong (IOI Amatong), Police Officer I Archimedes Olasiman (PO1 Olasiman), media representative Steve Gabriel, Police Officer 2 Jason Tompong (PO2 Tompong) and Police Senior Inspector Alvin Futalan (PSI Futalan) as its witnesses. The supposed testimony of Barangay Kagawad Jasper Michael Cuevas was the subject of stipulations of facts upon agreement of the parties. The combined testimonies of all these witnesses established the following:

In the morning of June 30, 2011, the police operatives of Provincial Intelligence Branch of Negros Oriental, Police Provincial Office received a tip from a confidential informant regarding the alleged involvement of accused Judith Colaljo Calongcong in the illegal drugs trade at her residence in Barangay Calindagan, Dumaguete City. Pursuant thereto, the chief of the Provincial Intelligence Bureau of Negros Oriental, PSI Futalan, instructed PO2 Tompong and PO1 Olasiman to conduct surveillance to verify the given information and for them to personally familiarize themselves with the area and the subject itself. In the afternoon of the same day, the two police officers went to the target area along South Road, National Highway, Barangay Calindangan, specifically about 10 to 15 meters from the intersection of City High School. After confirming the illicit activities of the subject, accused Judith Colaljo Calongcong, PO2 Tompong and PO1 Olasiman returned to their office and reported their findings to PSI Futalan.

The following morning of July 1, 2011, PSI Futalan convened a team of police officers to conduct an entrapment operation on subject accused. Present therein for initial operational briefing on said entrapment operation included PSI Futalan, PO1 Olasiman, PO2 Tompong and certain police officers, namely, Alcoran, Abucayon, Calugcugan, Gajetos. As instructed by PSI Futalan, PO2 Tompong prepared and marked the five hundred (Php500.00) peso bill with serial number SY 085758 with his initials "JCT" to be used as buy-bust money. Afterwards, PO2

Tompong contacted via text message IO1 Julieta Amatong of the local office of the Philippine Drug Enforcement Agency (PDEA) in order to coordinate their planned entrapment operation.

Since the target personality was a female person, the team sought the help of IO1 Amatong for their operation. As a consequence, the full operational briefing was held at the local PDEA Office that same morning. During the briefing, PO2 Tompong was designated to act as poseur-buyer while PO1 Olasiman and IO1 Amatong were to act as PO2 Tompong's immediate back up.

Subsequently, the group proceeded to the target area at around 10:30 in same morning of July 1, 2011. PSI Futalan, IO1 Amatong and PO1 Abucayon rode the service vehicle while the rest of the team led by PO2 Tompong were on their respective individual motorcycles. Upon arrival at the area, PO2 Tompong proceeded to the front portion of accused's house. After about ten to fifteen minutes of waiting, the accused arrived. PO2 Tompong then asked accused in the Visayan dialect if he could score “bunga” (local term for shabu) and how much would a sachet cost. The accused replied that it would cost Php500.00 and further said: “Adto ta mag-daog sa kilid sa Hypermart” (we will continue our transaction at the side of Lee Plaza Hypermart). And so, PO2 Tompong boarded his motorcycle and proceeded to the area.

On his way to Hypermart, PO2 Tompong contacted PO1 Olasiman to inform the team about the change of plans. Upon arrival at the area, PO2 Tompong parked his motorcycle at the side of Lee Plaza Hypermart and waited for the accused for nearly an hour. Meanwhile, the rest of the team positioned themselves strategically about fifteen to twenty meters away.

When the accused finally arrived, she parked her own motorcycle near PO2 Tompong and asked for the money. PO2 Tompong then handed to the accused the marked five hundred peso (Php500.00) bill which the latter received. In turn, the accused dipped her hand in her right pocket and took out five (5) transparent, heat-sealed sachets of suspected shabu. The accused asked PO2 Tompong to choose one from among the five sachets. PO2 Tompong chose one and examined its contents. On the basis of his training and experience, he believed that the sachet contained shabu, a dangerous drug. Thereafter, he placed the sachet that he just bought inside his pocket. Almost simultaneously, PO2 Tompong also grabbed the right hand of the accused and seized the remaining four sachets. He arrested accused and informed her of the nature of her arrest, that is for illegal sale and possession of dangerous drugs. PO2 Tompong further apprised the accused of her constitutional right in the Visayan dialect, known and understood by the latter. At that point, PO1 Olasiman and the rest of the team swooped in to assist PO2 Tompong.

IO1 Amatong then conducted a body search on the person of the accused and recovered the marked five hundred (Php500.00) peso bill, another five hundred (Php500.00) peso bill and the key of the motorcycle that accused used.

At the crime scene, PO2 Tompong marked the heat-sealed transparent plastic sachet containing suspected shabu that he earlier bought from accused with “JCC-BB-7/1/11” and the four (4) other sachets that he seized from the right hand of the accused with “JCC-P1-7/1/11” to “JCC-P4-7/1/11”, respectively. The initials “JCC” represented the name of accused Judith Colaljo Calongcong, the letter “BB” referred to buy-bust operation, the letter-number combination of “P1” to “P4” stood for the offense of possession of illegal drugs and the corresponding numbers of sachets confiscated, while 7/1/11 referred to the date of the incident. PO2 Tompong further placed his signatures on said markings.

After the markings, PO2 Tompong conducted the inventory of the seized items along a pathway beside the main road at the side of Lee Plaza Hypermart. The conduct of the inventory was made and witnessed by accused Judith Colaljo Calongcong, DOJ representative Anthony Chilius Benlot, media practitioner Steve Gabriel and barangay

official Jasper Michael Cuevas, who were called and had arrived by then. These witnesses along with IO1 Amatong of the PDEA, PO2 Tompong as the seizing officer, PSI Futana as the team leader signed the Inventory/Receipt of the Property Seized. During the entire inventory process, PO1 Olasiman took photographs to document the same.

Thereafter, the team brought the accused and the confiscated items to the provincial police office at Agan-an Sibulan, Negros Oriental for the usual booking procedures. The seized contrabands were in the custody of PO2 Tompong at all times. The latter then placed the same inside his personal locker of which only he had the key to it. Meanwhile, PO2 Tompong prepared a Memorandum Request for Crime Laboratory Examination and Drug Test addressed to the Provincial Chief of the crime laboratory which was signed by PSI Futalan.

At the local PDEA office, IO1 Amatong also recorded the incident in the PDEA Negros Oriental blotter.

PO2 Tompong then brought the seized items to the Negros Oriental Provincial Crime Laboratory at Dumaguete City for examination. These contraband items were received personally by PCI Llana, the forensic chemist of said Crime Laboratory, at 2:45 in the afternoon of the same day.

Upon receipt thereof, PCI Llana re-marked as Specimen A-1 the one (1) heat-sealed transparent sachet with markings "JCC-BB-7/1/11" and Specimens B-1, B-2, B-3 and B-4 the other four (4) heat-sealed transparent sachets with markings "JCC-P1-7/1/11" to "JCC-P4-7/1/11", respectively. When weighed, Specimen A-1 as well as the Specimens B-1 to B-4 were all found to contain 0.09 gram, 0.33 gram, 0.10gram, 0.08 gram and 0.9 gram, respectively, of white crystalline substance. PCI Llana's qualitative examination of the specimens showed that all of the five (5) sachets yielded positive to contain Methamphetamine Hydrochloride, a dangerous drug under R.A. 9165. Subsequently, PCI Llana prepared and issued Chemistry Report No. D-122-11 containing her findings and conclusion. The specimen were re-sealed after the examination and were kept and stored in the steel cabinet inside the evidence room of the crime laboratory. Thereafter, PCI Llana submitted the drug specimens to the trial court on August 12, 2011 as well as her report thereto for the joint trial of the instant cases.

Version of the Defense

The defense presented accused Judith Colaljo Calongcong and one Leah Calooy Valencia as its witnesses.

Accused Judith Colaljo Calongcong testified that she is married, a housekeeper and a resident of Barangay Calindagan, Dumaguete City. Accused declared that on July 1, 2011 past ten in the morning, she was inside her house watching television when a certain Allan Chan, an ex-convict, came to see her. Allan Chan requested her to help him sell a welding machine so that they can earn extra money. Accused acceded to his request but said that she could only do so at a later time since she still has to collect the amount of Php1,000.00 from her friend who borrowed from her, so she could use it for her husband's birthday celebration.

After accused collected the money from Leah at his house located at the back of (Bishop's) Palace in Barangay Bagacay, Dumaguete City, she proceeded to Lee Plaza Hypermart as earlier agreed with Allan Chan to meet the owner of the welding machine, who lives at the nearby place. When accused arrived there, she asked Allan Chan where the seller was but Allan told her to wait since he already texted him. However, while accused and Allan were conversing, somebody suddenly approached them and held accused's hands. Thereafter, plenty of people came near and Allan Chan was able to flee. Accused was later informed that she was arrested. Accused then asked them why but they bodily searched her. Accused, further, asked what they were doing but she was merely told that they were just checking something.

Thereafter, these persons got accused's wallet which only contained Php20.00. They also retrieved the one thousand peso bill (Php1,000.00) from the pocket of the accused. They then requested someone to bring in a table

from a nearby restaurant. Accused alleged that aside from the money taken from her, sachets of shabu were also placed on the table. Subsequently, the persons called for a female person to conduct a more thorough body search on her person. Thereafter, a barangay official arrived and records were made. Later, the accused was brought to the police station where she was made to urinate. The accused was informed that the result of her urine test was positive although she has no copy of the result.

The accused, thus, denied being engaged in the illegal drug trade as well as possessing shabu. She also denied having been informed of her constitutional rights when she was arrested and that she did not know her arresting officers prior to said incident.

Leah Calooy Revilla corroborated the statements of accused as to the latter's allegation that at around ten o'clock in the morning of July 1, 2011, the accused went to her house in Baracay, Dumaguete City in order to collect Php1,000.00 from her. Accused allegedly stayed for less than an hour and left Revilla's house in a hurry since she was to meet a certain Allan regarding a welding machine. The accused was on a motorcycle when she arrived and left at Revilla's house.

Trial Court's Ruling:

On August 31, 2012, the court a quo rendered its assailed Joint Judgment finding accused Judith Colaljo Calongcong guilty beyond reasonable doubt of the two charges against her. The court a quo found that all the elements of the crimes of illegal sale as well as illegal possession of dangerous drugs have been duly and clearly established by the prosecution. In so ruling, the court a quo gave due credence and weight to the testimonies and documentary evidence as well as the object evidence of the prosecution as compared to the bare denial of the accused.

Hence, this appeal by accused-appellant anchored on the following assignment of errors:

The Assigned Error[8]:

I.THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF SELLING AND POSSESSING ILLEGAL DRUGS DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THAT THE SACHETS OF SHABU WERE SUBJECTED TO THE PROPER CHEMICAL EXAMINATION AS MANDATED BY LAW. THUS, THE PROSECUTION FAILS TO PROVE ALL THE ELEMENTS OF THE CRIMES CHARGED ESPECIALLY OF THE CORPUS DELICTI OF THE CRIME, OF WHICH THE IDENTITY AND INTEGRITY WERE COMPROMISED;

II.THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF SELLING AND POSSESSING ILLEGAL DRUGS DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THAT ACCUSED WAS REALLY SELLING AND IN POSSESSION OF ILLEGAL DRUGS AS THE WITNESSES WERE CONTRADICTING ON MATERIAL POINTS OF THE ALLEGED INCIDENT MAKING THE INCIDENT CONTRARY TO HUMAN EXPERIENCE AND THE PROSECUTION WITNESS ARE NOT CREDIBLE NEGATING THE ALLEGATION THAT ACCUSED WAS SELLING AND POSSESSING ILLEGAL DRUGS THAT REALLY TOOK PLACE;

III.THE TRIAL COURT ERRED IN FINDING THAT ACCUSED-APPELLANT GUILTY OF SELLING AND POSSESSING ILLEGAL DRUGS DESPITE THE FACT THAT THE POLICE OFFICERS VIOLATED SECTION 21, OF R.A. 9165.

IV.THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF SELLING AND POSSESSING ILLEGAL DRUGS DESPITE THE INADMISSIBILITY OF THE EVIDENCE AGAINST HER FOR HAVING BEEN OBTAINED UNDER AN INVALID WARRANTLESS ARREST IN VIOLATION OF HER CONSTITUTIONAL RIGHTS AND BY IGNORING THE

ILL-MOTIVE OF THE POLICE OFFICERS.

The Court's Ruling:

We affirm the conviction of accused-appellants.

Appellant first asserts that the failure of the prosecution to specify the kind of chemical tests that the forensic chemist conducted on the subject specimens renders doubtful if the same items really contained methamphetamine hydrochloride or shabu, a dangerous drug. Resultantly, the corpus delicti of the crime has not been sufficiently proven which consequently casts doubts on her culpability.

Appellee People counters that it is now too late for appellant to question the kind of chemical test that the forensic chemist conducted and to raise that the lack of testimony on the details thereof is sufficient basis to nullify Chemistry Report No. D-122-11. It argues that she had lost the opportunity to clarify the issue when she did not raise the same during cross-examination and dispute the contents of the chemistry report during the presentation of her own evidence. It, thus, asserts that regardless of the process or procedure employed by the forensic chemist for the chemical examination of the seized substances, the presumption of regularity in the performance of her duties applies.

The points of appellee People are well-taken.

Police officers enjoy the presumption of regularity in the performance of their functions and duties. Thus, absent any clear or convincing evidence to the contrary, the presumption prevails.

Here, it is noteworthy that Police Chief Inspector Josephine Llena, the forensic chemist of the PNP Crime Laboratory of Negros Oriental, whose expertise and qualifications were duly admitted by the parties[9], declared in court in no uncertain terms that after conducting physical and chemical examinations on the white crystalline substances placed on five heat-sealed transparent sachets, all of them yielded positive for the presence of methamphetamine hydrochloride, a dangerous drugs. Her findings were reflected in Chemistry Report No. D-122-11[10] which was sufficiently identified, presented and duly admitted as evidence for the prosecution.

Consequently, the foregoing testimonial and documentary pieces of evidence are more than sufficient basis to hold that indeed the white substances confiscated from appellant are shabu. In Our view, PCI Llena need not specify what kind of chemical test and procedure that these white substances had been subjected to. A reasonable presumption exists that the test employed by PCI Llena on these substances are those tests that would determine whether the same contain methamphetamine hydrochloride.

At any rate, if indeed appellant was in doubt whether the tests and procedure employed by the forensic chemist are correct, then she should have raised the matter before the court below and presented evidence to effectively destroy the presumption of regularity accorded to PCI Llena in the performance of her function as PNP forensic chemist. Regrettably, appellant failed to do so. Hence, the presumption in favor of PCI Llena that the tests and procedure she used in determining whether the specimens submitted really contain methamphetamine hydrochloride or not prevails. In like manner, as appellant failed to raise the matter in the court below, appellant is now barred to question it on appeal. Basic is the rule that issues not raised in the lower court cannot be raised for the first time on appeal.

Appellant also assails the trial court's ruling insofar as it gave so much reliance on the testimonies of the prosecution's witnesses. She argues that the scenario presented by them appears contrary to human experience and that there were several contradictory and inconsistent statements among them.

We remain unpersuaded.

In essence, appellant thus questions the credibility of prosecution witnesses. In resolving issues on the credibility of witnesses on appeal, this Court is guided by the following established rules:

First, this Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand.[11] From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses.[12]

Second, absent any substantial reason which would justify the reversal of the RTC's assessments and conclusions, the reviewing court is generally bound by the lower court's findings, particularly when no significant facts and circumstances, affecting the outcome of the case, are shown to have been overlooked or disregarded.[13]

In the present case, the RTC found the testimonies of the prosecution witnesses to be credible. It ratiocinated:

Comparing the defense version with that of the arresting/entrapping operatives as to what really happened on July 1, 2011, this Court finds the account of the prosecution witnesses to be more credible. Aside from the presumption that they, PO2 Tompong, PO1 Olasiman and IO1 Amatong, regularly performed their duties, this Court notes that these prosecution witnesses gave a consistent and straightforward narration of what transpired on the day in question. The version depicted by the prosecution, through the testimonies of PO2 Tompong, PO1 Olasiman and IO1 Amatong, the arresting/entrapping officers, could have only been described by persons who actually witnessed the event that took place on July 1, 2011. Only a trustworthy witness could have narrated with such clarity and realism what really happened on the date referred to.[14]

We agree. Our own independent examination of the records lead Us to arrive at the same conclusion.

To secure a conviction for illegal sale of shabu, the following essential elements must be established: (a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing. What is material in prosecutions for illegal sale of shabu is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence.[15]

Here, all these essential elements were clearly, competently and convincingly proven by the prosecution. The detailed and straightforward narration[16] of PO2 Jason Tompong, the designated poseur-buyer, as to the facts and circumstances surrounding appellant's commission of the illegal sale of dangerous drugs which led to the latter's arrest and the eventual confiscation of another sachets of shabu was more than sufficient to convict appellant.

To recall, it was indisputably established that the police officers of Provincial Intelligence Branch of Negros Oriental, Police Provincial Office received an information from a confidential agent that appellant, initially identified as "Dith", was engaged in illegal sale of shabu in her residence. In view of said information, PSI Futana instructed PO2 Tompong and PO1 Olasiman to verify the same. Hence, the two police officers conducted a surveillance on appellant. After confirming the information, a buy-bust operation against appellant was planned and later conducted in order to entrap her. PO2 Tompong was designated to act as the poseur-buyer while PO1 Olasiman and IO1 Amatong as his immediate back-up. In court, PO2 Tompong attested that the negotiation[17] of the sale started in front of appellant's house in Barangay Calindangan but the consummation[18] thereof occurred near Hypermart. PO2 Tompong declared that he was made to choose by appellant which one to pick from among the five sachets that the latter was holding in her hands after he handed to appellant the pre-marked Php500.00 bill during said buy-bust operation. PO2 Tompong examined the substance and based on her training and experience, he believed the same to be shabu. Indeed, when the substance, which weighed 0.09 gram, was subjected to an examination by the forensic chemist, it was found to be a methamphetamine hydrochloride or shabu, a dangerous drug.[19]

In court, PO2 Tompong positively identified[20] appellant Judith Colaljo Calongcong as the same person who was the subject of their buy-bust operation and the person who sold to him a sachet of shabu. The buy-bust money[21] employed in the transaction was likewise duly presented and identified in court. Hence, it is therefore evident that the identities of both the buyer and the seller, the object and the consideration as well as the proof that the illegal transaction indeed transpired, were properly and duly proven by the prosecution.

To repeat, all the elements for illegal possession of drugs were competently and convincingly established by the prosecution. The four other sachets containing suspected shabu which were earlier shown to PO2 Tompong was likewise confiscated from appellant after she was arrested. Also, the forensic chemist confirmed that each of the sachets contained shabu of different weights, after the same were subjected to laboratory examination. There is nothing in the records to show that appellant had the authority to possess the drugs. Thus, her mere possession thereof constitutes prima facie evidence of knowledge or animus possidendi on her part which is sufficient to convict her due to the absence of any satisfactory explanation by her as to such possession.[22]

The testimony of PO2 Tompong was supported and corroborated on material points by the other prosecution witnesses such as PSI Futana, PO1 Olasiman and IO1 Amatong. We duly note that the testimonies of the public officers as to how the actual purchase of the sachet of shabu and the payment of the buy-bust money transpired as well as the possession of appellant of the other four sachets containing shabu, were all made in a credible, straightforward and consistent manner. Hence, We find no compelling justification to doubt their credibility.

The credibility of said prosecution witnesses were not destroyed with their supposed contradictions and inconsistent statements pointed out by appellant. The declaration of PO1 Olasiman that he did not notice PO2 Tompong and appellant conversing in front of the latter's house does not discredit the positive declaration of PO2 Tompong that he had a casual negotiation with appellant involving the buying of illegal sale. In like manner, notwithstanding that the two were never introduced to each other does not negate the fact that they could still casually transact on an illegal sale of dangerous drugs. This Court takes judicial notice that drug pushing has been committed with so much casualness even between total strangers.[23]

In addition, it is of no moment whether PO2 Tompong contacted PO1 Olasiman to inform the latter of the change of plan, or, whether PO1 Olasiman merely followed PO2 Tompong. The fact still remains that the team that conducted the buy-bust operation was able to go near Hypermart and actually witnessed the illegal transaction. Verily, this matter did not relate to the essential elements of the crimes charged and are too trivial in character to have any bearing in the determination of the appellant's guilt or innocence. The same is true with respect to the supposed inconsistent statements as to whether PO2 Tompong was eating or standing when appellant arrived and as to whether IO1 Amatong and PSI Futalan were together during the conduct of the buy-bust operation. It has been held that minor inconsistencies on trivial matters do not necessarily discredit the testimony of a witness. In one case, the Supreme Court deemed it to be basic enough that an inconsistency that had nothing to do with the elements of the crime could not be a basis for acquittal.[24]

In another vein, appellant's defense of denial cannot prevail against the positive testimony of prosecution witnesses. There is also no imputation by appellant of any evil motive on the part of the members of the buy-bust team to falsely testify against him. Their testimonies and actuations therefore enjoy the presumption of regularity. [25]

Furthermore, appellant argues that the apprehending officers violated Section 21, Article II of R.A. 9165. Appellant questions the conduct of the physical inventory and assails the photographs which were taken during said inventory. She points out that at the time the DOJ representative affixed his signature on the receipt/inventory, the same had already filled up and that what was left was for said representative to sign.

Appellant also contests the inventory for lack of signatory as to who made the alleged receipt/inventory and that the photographs allegedly taken during inventory were not properly and duly authenticated.

Again, these arguments fail to persuade Us.

Section 21(a), Article II of the Implementing Rules and Regulations of RA 9165, reads as follows:

(1) 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.

In other words, the failure of the prosecution to show that the police officers conducted the required physical inventory and take photograph of the objects confiscated does not ipso facto render inadmissible in evidence the items seized.[26] There is a proviso in the implementing rules stating that when it is shown that there exist justifiable grounds and proof that the integrity and evidentiary value of the evidence have been preserved, the seized items can still be used in determining the guilt or innocence of the accused.[27]

Here, the integrity and evidentiary value of the seized items had been duly preserved. It was shown that after PO2 Tompong marked the sachet of shabu subject of the sale with “JCC-BB-7/1/11”[28] as well as the other four sachets of shabu taken from the possession of appellant with “JCC-P1-7/1/11” to “JCC-P4-7/1/11”[29], respectively, he conducted an inventory[30] of the items seized. It was PO2 Tompong who had custody of the seized sachets of shabu at all times, starting from the time that these were confiscated from appellant until their submission to the PNP Crime Laboratory of Negros Oriental for their laboratory examination. There, the subject items were received by PCI Llena[31], who then conducted the necessary examinations thereon and thereafter kept the sachets of shabu in her possession before they were finally submitted[32] to the trial court for their presentation in court.

It bears stressing too that there was actually an inventory of the seized items at the place of the incident and that there were photographs[33] taken during said inventory. The said inventory were signed[34] by DOJ representative Anthony Chilius Benlot, PDEA representative, IO1 Amatong, media representative Steve Gabriel, elected barangay official Hon. Jasper Michael Cuevas, seizing officer PO1 Tompong and PSI Alvin Futralan, in faithful compliance with the rules. The supposed lapses, if any, in the conduct of the inventory and the presentation in evidence of the photographs taken during the inventory are so inconsequential to render the seized items inadmissible as evidence. If the absence of the conduct of the inventory and the photographs are excusable in itself when the integrity and evidentiary value of seized items have been duly preserved, then with more reason that it would be so if the inventory and photographs were actually taken. We need not emphasize further that the failure to physically inventory and photograph the shabu seized from an accused in the manner prescribed by law do not invalidate his arrest or render said drug inadmissible in evidence if its integrity and evidentiary value remain intact.[35] As already discussed, the integrity and evidentiary value of the seized items were not compromise, hence, it could be utilized in determining the guilt or innocence of the accused.

Finally, anent the last issue raised by appellant, We need not explain further the apt ruling of the trial court on the matter, thus:

With regard to the validity of the arrest of the accused, evidence shows that the accused was the subject of a buy-bust operation, the main goal of which was to catch her in flagrante selling methamphetamine hydrochloride. A buy-bust operation has been proven to be an effective way of unveiling the identities of drug dealers and of luring them out of obscurity. It catches the violator in flagrante and the police officers conducting the operation are not only authorized but duty-bound to apprehend the violator and to search her for anything that may have been part of or used in the commission of the crime. From the evidence for the prosecution, the accused arrested while committing a crime – peddling of illegal drugs, a circumstance where warrantless arrest is justified under Rule 113, Section 5(1) of the Rules of Court. Thus, from the very nature of a buy-bust operation, the absence of a warrant does not make the arrest illegal.[36]

All told, We find that the prosecution has discharged beyond any shadow of doubt the burden of proving the guilt of appellant Judith Colaljo Calongcong.

WHEREFORE, in the light of the foregoing, the instant appeal is DENIED for lack of merit. The assailed Joint Judgment dated August 31, 2012 of the Regional Trial Court, Branch 30 of Dumaguete City in Crim. Cases Nos. 20566 and 20565 finding the accused-appellant Judith Colaljo Calongcong guilty for Violation of Sections 5 and 11 of Art. II of R.A. 9165, respectively, is hereby AFFIRMED in toto. No pronouncement as to cost.

SO ORDERED.

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

[1] Per Notice of Appeal; Record, p. 273.

[2] Penned by Presiding Judge Rafael Crescencio C. Tan, Jr; Rollo, pp. 13-25.

[3] Ibid, p. 24.

[4] Record, pp. 62 and 4, respectively.

[5] Per Certificate of Arraignment dated September 30, 2011; Record, p. 129.

[6] Per Minutes of the Preliminary Conference dated November 10, 2011; Record, pp. 130-134.

[7] Per Joint Pre-Trial Order dated January 12, 2012; Record, pp. 142-148.

[8] Rollo, Brief for Accused-Appellant, Assignment of Error, p. 43.

[9] Transcript of Stenographic Notes (TSN), February 27, 2012, p. 3; Joint Pre-Trial Order, Record, p. 142.

[10] Exh. “B”; Folder of Exhibits, p. 2.

[11] People v. Sanchez, G.R. No. 197815, February 8, 2012 citing People of the Philippines v. Laog, G.R. No. 178321, October 5, 2011.

[12] Ibid.

[13] Ibid.

[14] Joint Judgment; Rollo, p. 23.

[15] People v. Bautista, G.R. No. 177320, February 22, 2012.

[16] TSN, April 24, 2012, pp. 14-27.

[17] Ibid, pp. 14-15.

Q: Now at the scene in Calindangan, what happened when Judith arrived?

A: I asked her in a dialect known to us, in Visayan, sir, that “mo-score ko ug bunga nimo”, or juggling of the shabu, sir.

Q: What does that mean?

A: “Bunga” means shabu, sir.

Q: So you're trying to ask her that you want to purchase?

A: That I am willing to purchase shabu from her. I want to buy shabu.

Q: And what was her response?

A: Before she responded sir, I asked her how much it costs, sir, for a sachet so she responded five hundred (P500) pesos. After that, sir, she decided to, in Visayan, sir, “adto ta mag-daog sa kilid sa Hypermart”.

Q: And what was your understanding of that phrase, “adto ta mag-daog sa kilid sa Hypermart”?

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A: In my own understanding sir, that we are going to continue our transaction at the side of Hypermart.

[18] Ibid, pp. 16-17.

Q: So what happened next when you arrived there?

A: After arriving at the area, sir, I waited there, sir. Then I kept on texting the team, sir, and then almost an hour when Judith arrived, sir.

Q: What about Olasiman, was he with you?

A: He was with me, sir, but no(t) so close, sir.

Q: Not so near?

A: Not so near.

x x x x x x x x

Q: And what happened when she arrived?

A: She directly parked near my position, sir, where I was standing sir.

Q: And what did you do?

A: And asked me as to where the money was.

Q: And what did you do after he asked you where the money was?

A: I handed her the five hundred (P500) peso marked money which she received.

Q: And that is the same five hundred (P500) peso bill that you prepared in your briefing?

A: Yes, sir.

Q: And what did she do after you handed her the money?

A: She dipped from her right pocket the shabu, sir, there were five (5) sachets in her hands.

Q: She just showed it to you?

A: She told me, you choose as to which one would you like to get?

Q: And what did you do at that point?

A: I chose one (1), sir, and examined it, sir.

Q: Did you examine the contents?

A: Yes, sir.

Q: What were the the contents of that one (1) sachet?

A: Based on my experience and believing in good faith it was really a shabu, sir, I put it in my right pocket, sir.

x x x x x x x x

Q: Now what did you do after choosing that particular sachet?

A: Simultaneously while putting in my right pocket, sir, I grabbed her hand, sir, and informed her that she

violated the anti-illegal drugs, sir.

[19] Supra at note 10.

[20] TSN, April 24, 2012 , p. 14.

[21] Exh. “I”; Record, p. 105.

[22] Asiatico v. People, G.R. No. 195005, September 21, 2011.

[23] People v. Bautista, G.R. No. 177320, February 22, 2012.

[24] Ibid.

[25] People v. Montevirgen, G.R. No. 189840, December 11, 2013.

[26] Ibid.

[27] Ibid.

[28] TSN, April 24, 2012, p. 19

[29] Ibid, p. 20.

[30] Per Inventory/Receipt of Property Seized, Exh. “E” with submarkings; Folder of Exhibits, p. 4.

[31] Per Request for Crime Laboratory Examination and Drug Test, Exh. “A”; Folder of Exhibits, p. 1.

[32] Per Receipt, Exh. “C”; Folder of Exhibits, p. 3.

[33] Exhibits “F” and submarkings; Folder of Exhibits, pp. 5-8.

[34] Supra at note 30.

[35] People v. Montevirgen, G.R. No. 189840, December 11, 2013.

[36] Joint Judgment, Rollo, pp. 21-22.

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