

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ABELARDO DEL VALLE Y PALANAN, ACCUSED-APPELLANT.

Ponente: BRUSELAS, JR. J.

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BRUSELAS, JR. J.:

Brought to the Court for review is a Decision[1] that found the accused-appellant Abelardo Del Valle y Palanan (“Del Valle” for brevity), together with another accused, guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs. The decretal portion of which reads as follows:

“WHEREFORE, accused ABELARDO DEL VALLE y PALANAN is hereby found GUILTY beyond reasonable doubt of illegal sale of dangerous drug, in violation of Section 5, Article II of Republic Act No. 9165, and hereby imposed the penalty of life imprisonment and a fine of five hundred thousand pesos (P 500,000.00). For insufficiency of evidence, he is ACQUITTED of the charge of violation of Section 11 of said law.

Accused JERALD SAJUCON [sic] y SOLIS is hereby found GUILTY beyond reasonable doubt of illegal use of a dangerous drug, in violation of Section 15, Article II of RA 9165, and hereby imposed the penalty of six months rehabilitation in a government center. He is, however, ACQUITTED of the charge of violation of Section 12 of the same law.

Both abovenamed accused may be credited with the period that they have served under preventive imprisonment, in accordance with Article 29 of the Revised Penal Code, as amended, and applicable rules.

Accused PABLO HEREDIA y ESCANILLA is hereby ACQUITTED of the charges filed against him.

The Clerk of Court is hereby directed to turn over with dispatch the drug specimen subject of this case to the Philippine Drug Enforcement Agency (PDEA) for proper disposition. She is further directed to return the marked P 500.00 bill attached to the records to the DAID-SOTG, Northern Police District Caloocan City.

SO ORDERED.”[2]

On 23 November 2010, two (2) separate pieces of information for Violation of Sections 5[3] and 11,[4] Article II of Republic Act No. 9165,[5] were filed against Del Valle. The accusatory portions of the two pieces of information read:

“That on or about November 20, 2010, in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously sell to PO1 Herbert A. Bagain, Jr., who posed as buyer of zero point zero seven grams (0.07) of Methamphetamine Hydrochloride (Shabu), knowing the same to be a dangerous drug.

CONTRARY TO LAW.”[6]

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“That on or about November 20, 2010 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and

feloniously have in his possession and control one (1) heat-sealed transparent plastic sachet containing zero point zero three grams (0.03) of white crystalline substance Methylamphetamine Hydrochloride (Shabu), knowing the same to be a dangerous drugs (sic).

CONTRARY TO LAW.”

On even date, two (2) more separate pieces of Information were also filed against accused Pablo Heredia y Escanilla (“Heredia”) and Jerald Sajucum y Solis (“Sajucum”) for violation of Sections 12[7] and 15,[8] Article II of the same law. The accusatory portions of the two pieces of information read:

“That on or about November 20, 2010 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any authority of law, did then and there willfully, unlawfully and feloniously use a white crystalline substance Methylamphetamine Hydrochloride (Shabu), knowing the same to be a dangerous drug.

CONTRARY TO LAW.”

“That on or about November 20, 2010 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any authority of law, did then and there willfully, unlawfully and feloniously use a white crystalline substance Methylamphetamine Hydrochloride (Shabu), knowing the same to be a dangerous drug.

CONTRARY TO LAW.”

When arraigned, the three (3) accused individuals pleaded “Not Guilty” to all the charges against them. Since the four (4) cases were founded on the same facts and closely related, upon motion of the public prosecutor, which was not objected to by the defense, the cases were tried jointly.

The prosecution presented six (6) witnesses: 1) Forensic Chemist PCI Maridel Rodis (“PCI Rodis”); 2) PO3 Roberto Cahilig (“PO3 Cahilig”); 3) PO3 Randy M. Llanderal (“PO3 Llanderal”); 4) PO1 Herbert Bagain, Jr. (“PO1 Bagain”); 5) SPO1 Fernando Gomboc (“SPO1 Gomboc”); 6) PO3 Ariosto Rana (“PO3 Rana”); and 7) Media Reporter Maeng Santos (“Ka Maeng Santos”). The defense, on the other hand, presented the three (3) accused individuals.

The factual circumstances presented by the prosecution reveal that at around 11:00 in the morning of 09 November 2010, while SPO1 Gomboc and PO1 Bagain, police officers who were members of the District Anti-Illegal Drug Special Operation Task Group, Northern Police District (DAID-SOTG, NPD) and deputized by the Philippine Drug Enforcement Agency-Metro Manila Regional Office (PDEA-MMRO), were on duty inside their police station located at Langaray, Kaunlaran Village, Caloocan City, Metro Manila, two (2) regular confidential informants arrived thereat. According to the two informants, there was rampant selling of illegal drugs by a certain alias “Jessica” and a certain alias “Eddie” of Libis, Baesa, Caloocan, Metro Manila, as well as by alias “Michael” and alias “Nora” of Justicia, Marulas, Valenzuela, Metro Manila.

PO1 Bagain asked the confidential informants for the important details pertaining to the above-mentioned drug pushers. The confidential informants told PO1 Bagain that @ “Michael” and @ “Nora” were selling shabu usually early in the morning in a house located near the river and Daang Bakal of Valenzuela, and which also served as the place where drug users engaged in pot sessions. PO1 Bagain immediately relayed the confidential information he got to their chief, PC/Insp. Arnold Thomas Ibay (“PC/Insp Ibay”)

Upon being informed of the alleged illegal drug trading of @ “Michael” and @ “Nora”, as well as the related drug activities in one of the houses along Justicia, Marulas, Valenzuela, PC/Insp. Ibay assigned PC/Insp. Leoben T. Ong (“PC/Insp. Ong”) to be the team leader of a group which would conduct surveillance and buy-bust

operation against the target persons.

During the briefing, PC/Insp. Ong designated PO1 Bagain to act as the poseur-buyer. He was given a Five Hundred Peso (P 500) bill with the marking “HAB”.^[9] On the other hand, SPO2 Gomboc was instructed by PC/Insp. Ong to be the back-up officer of PO1 Bagain. In addition, PO1 Bagain was tasked to coordinate with the PDEA-MMRO regarding their planned surveillance and buy-bust operation against the drug suspects.

Pursuant to this, the duty officer in PDEA issued to the group of PC/Insp. Ong PDEA-MMRO Control Number 110-00157 for their coordination sheet^[10] dated 20 November 2010. PC/Insp. Ong likewise issued a Pre-Operation Report^[11] containing the names of their target persons, namely, @ “Jessica”, @ “Eddie”, @ “Michael” and @ “Nora” who were allegedly engaged in illegal drug activities in Caloocan, Malabon, Valenzuela and Navotas areas.

Around 5:45 in the early morning of November 20, 2010, the buy-bust team headed by PC/Insp. Ong, left the police station since @ “Michael” and @ “Nora” usually conduct their illegal drug transactions during that time. The group of PC/Insp. Ong, mainly composed of SPO2 Gomboc and PO1 Bagain, PO3 Cahilig, PO3 Llanderal and the two (2) regular confidential informant, used three (3) different private vehicles, a white Toyota Corolla taxi, a gray Toyota Corolla and an orange Mitsubishi Adventure, in going to the target place bringing with them items for inventory such as blank inventory form, masking tape, black ball pen, white coupon bond, and cellphone with camera, which they would use in the course of their buy-bust operation.

Around 6:30 in the morning of 20 November 2010, the buy-bust team arrived at the target place along Justicia St., Marulas, Valenzuela, Metro Manila. Immediately thereafter, the police officers instructed one of the informants to check the area if the target persons were there. After fifteen (15) minutes, the said informant called the police officers to inform them that it was only alias “Toto”, bata or tauhan of @ “Michael” and @ “Nora”, who was there selling shabu. The informant also told the policemen that there were two men waiting for their turn to use shabu in any designated place therein. Having learned that the place was indeed positive for illegal drug activities, PC/Insp. Ong conducted a final briefing wherein PO1 Bagain would be accompanied by one (1) confidential informant to the target place while SPO2 Gomboc and the other police officers would serve as his back-up operatives. It was agreed upon that the pre-arranged signal for the sale of shabu would be the removal of the cap of PO1 Bagain. PO3 Cahilig and PO3 Llanderal would rely on SPO2 Gomboc, who would monitor PO1 Bagain for confirmation that he had already bought shabu from their suspect @ “Toto”. The confidential informant warned PO1 Bagain that they had to be careful since the area of their operation was quite dangerous.

On the same day, around 7:15 in the morning, PO1 Bagain and the other confidential informant walked through an alley in Daang Bakal, Justicia St., Marulas, Valenzuela, until they reached a row of houses near the riverside. When PO1 Bagain and the confidential informant passed by the front of a staircase of one of the houses therein, a man (@ “Toto”) suddenly approached them. The confidential informant immediately talked to the man whom he introduced to PO1 Bagain as Toto. After a short exchange of words, @ “Toto” asked PO1 Bagain if they would buy and for how much. PO1 Bagain understood @ “Toto” and answered, “Yes”, in the amount of Five Hundred Pesos (P 500.00) thereafter giving him the marked buy-bust money which he brought with him. While the right hand of @ “Toto” received the buy-bust money handed by PO1 Bagain, his left hand reached inside the left front pocket of his pants. PO1 Bagain saw that there were two (2) pieces of heat-sealed transparent plastic sachets inside the left front pocket of alias Toto's pants. PO1 Bagain noticed that one sachet was still full, while the other one was already half-empty. He also noticed a One Thousand Peso (P 1,000.00) bill from @ Toto's pocket. Using his left hand, @ “Toto” handed to PO1 Bagain the transparent plastic sachet which was already half-empty while telling him that if they like, they could use the lower portion of the house for their “session” for a fee of Twenty Pesos (P 20.00) after the two drug users occupying the same were done.

As @ “Toto” went down the stairs, PO1 Bagain looked at the “silong” lower ground of the house and indeed he found two persons inside with drug paraphernalia. PO1 Bagain placed inside the pocket of his pants the shabu that he just bought from the former and looked for SPO2 Gomboc within the vicinity.

SPO2 Gomboc was just waiting beside the target house where he hid himself while observing the buy-bust operations between PO1 Bagain and the drug suspect. Upon seeing SPO2 Gomboc, PO1 Bagain immediately removed his cap to signify that the sale of shabu had been consummated. PO1 Bagain then introduced himself to @ “Toto” as a police officer and arrested him. SPO2 Gomboc approached PO1 Bagain to assist him and then handcuffed @ “Toto”. PO1 Bagain showed to SPO2 Gomboc the shabu sold by @ “Toto” after which he confiscated from the right hand of @ “Toto” the buy-bust money. PO1 Bagain also frisked the body of @ “Toto” and recovered from him the other transparent plastic sachet which he saw earlier inside his pants' pocket. After a while, the other police officers arrived at the crime scene. PO1 Bagain told his other team members that there were two (2) more men using illegal drugs in the “silong” which prompted PO3 Cahilig and PO3 Llanderal to check the place. When PO3 Cahilig and PO3 Llanderal returned to the place where PO1 Bagain was staying with @ “Toto”, whom he had asked to sit down first, they had already arrested the two (2) other drug users pointed to by PO1 Bagain and had also confiscated the drug paraphernalia from the other drug user, later identified as Pablo Heredia. PO1 Bagain informed @ “Toto” of the reason for his arrest (sale and possession of illegal drugs) as well as his constitutional rights. PO1 Bagain placed his markings on the confiscated evidence. On the other hand, PO3 Llanderal also marked the other pieces of evidence seized from the other drug users and thereafter took pictures of all the evidence they confiscated as well as the buy-bust money.

Before the police operatives could conduct an inventory of the seized items, a commotion occurred prompting them to proceed instead to their police station at Langaray St., Dagat-Dagatan, Caloocan, Metro Manila. Upon arrival at the police station, PO1 Bagain and PO3 Llanderal immediately turned-over to the duty investigator, PO3 Ariosto B. Rana, the recovered pieces of evidence, buy-bust money and the persons they arrested whose real identities were later revealed as follows: 1) @“Toto” whose real name was Abelardo Valle y Palanan (herein appellant); 2) Pablo Heredia y Escanilla; and 3) Jerald Sajucom y Solis.[12]

Subsequently, an inventory[13] was conducted in the presence of Ka Maeng Santos, a representative from the media (CAMANAVA PRESS) and pictures[14] of the three (3) arrested persons were taken. Thereafter, all the arrested individuals were brought to the Philippine National Police–Crime Laboratory Office (PNP-CLO) in Camp Crame, Quezon City for the purpose of drug testing.

In order to have basis for filing the appropriate charges against the three (3) accused, PC/Insp. Arnold Thomas C. Ibay sent two (2) letters[15] similarly dated 20 November 2010 to the PNP-CLO in Camp Crame, Quezon City, respectively, requesting laboratory examination of the confiscated drug specimen in order to determine the presence of dangerous drugs, as well as drug testing of the three (3) arrested individuals: appellant Del Valle @ Toto, Heredia and Sajucom , to determine if they had used drugs.

On 21 November 2010, PCI Rodis, Forensic Chemist in PNP-CLO, issued Chemistry Report No. D-122-10 containing the following findings:

“SPECIMEN SUBMITTED:

Two (2) heat-sealed transparent plastic sachets each containing white crystalline substance having the following markings and net weights:

A (NAB/ADVP-1-11-20-10) – 0.07 gram

B (HAB/ADVP-2-11-20-10) – 0.03 gram

C- one (1) unsealed transparent plastic sachet with markings “RML/PHE-1-11-20-10” containing traces of

white crystalline substance.

Three (3) folded aluminum foil strips with markings “RML/PHE-2-11-20-10”, “RML/PHE-3-11-20-10” and “RML/PHE-4-11-20-10” marked as D, E and F, respectively.

Three (3) rolled aluminum foil strips with markings “RML/PHE-5-11-20-10”, “RML/PHE-6-11-20-10” and “RML/PHE-9-11-20-10” and “RML/PHE-7-11-20-10”, marked as G, H, I, respectively.

Two (2) disposable lighters with markings “RML/PHE-9-11-20-10” and “RML/PHE-9-11-20-10”, marked as J and K, respectively.

L – One (1) folded piece of bondpaper with markings “RECOVERED PIECES OF EVIDENCE-11-20-10”.

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FINDINGS:

Qualitative examination conducted on the above-stated specimen gave the following results:

- Specimen A, B, C, D and F – POSITIVE result for Methamphetamine Hydrochloride, a dangerous drug.
- Specimen E, G, H and I – NEGATIVE result for the presence of dangerous drugs.”[16]

On November 26, 2010, PCI Rodis issued another report, Chemistry Report No. DT-119 thru 121-10 containing the following findings:

“CHEMISTRY REPORT NO. DT-119 thru 121-10

SPECIMEN SUBMITTED:

Urine samples taken from the following living persons:

- A- Abelardo Del Valle y Palanan Jr. (DT-199-10)
- B - Pablo Heredia y Escanilla (DT-120-10)
- C- Jerald Sagucom y Solis (DT-121-10)

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FINDINGS:

Screening test conducted on the above-stated specimen gave the following results:

- Specimen A and C - POSITIVE for the presence of Methamphetamine [sic], a dangerous drugs.
- Specimen B - NEGATIVE for the presence of dangerous drugs.”[17]

The defense, on the other hand, presented a different version of the facts. According to appellant Del Valle, on 20 November 2010 at around 6:30 to 7:00 o'clock in the morning, he was inside their house at No. 56 Daang-Bakal, Marulas, Valenzuela City, when four (4) persons suddenly entered their house. They grabbed and handcuffed him and told him to go with them calmly. He asked what his offense was, but was told to just go with them if he does not want to be harmed. They also arrested and handcuffed his brother-in-law, Jerald Sagucom. After a while, another person who happened to be their neighbor, Pablo Heredia, was also arrested. They were brought to Langaray, Malabon aboard an FX vehicle. One of the apprehending persons, who testified first in court, told them to settle (“makipag-areglo”) with them for One Hundred Thousand Pesos (P 100,000.00) so that no case will be filed against them. They replied that they had nothing to offer as settlement and, besides, they did not commit any violation of law. Their pictures were taken in Langaray, Caloocan City. After a week, they were brought to the

Valenzuela City Jail.

Sajucom and Heredia similarly set up the defense of denial.

The court a quo thereafter rendered the assailed decision which found Del Valle guilty beyond reasonable doubt of the crime of illegal sale, but he was acquitted of the charge of illegal possession of dangerous drug. Sajucom was found guilty beyond reasonable doubt of illegal use of dangerous drugs, but he was acquitted of illegal possession of drug paraphernalia. The other accused Heredia was acquitted of the charge against him.

Invoking his innocence, only accused-appellant Del Valle appeals his conviction before the Court, and seeks his acquittal by raising the following assignment of errors:

“I.

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

II.

THE COURT A QUO GRAVELY ERRED IN NOT FINDING THAT ACCUSED-APPELLANT'S RIGHTS UNDER REPUBLIC ACT NO. 7438 (AN ACT DEFINING CERTAIN RIGHTS OF PERSON ARRESTED, DETAINED OR UNDER CUSTODIAL INVESTIGATION AS WELL AS THE DUTIES OF THE ARRESTING, DETAINING AND INVESTIGATING OFFICERS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF) WERE VIOLATED.”

We sustain the court a quo's judgment of conviction.

To secure a conviction for illegal sale of shabu under Section 5, Rule II of Republic Act No. 9165, the prosecution must prove the presence of the following essential elements: “(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.”[18] The commission of the offense of illegal sale of dangerous drugs, like shabu, requires simply the consummation of the selling transaction, which happens at the moment the buyer receives the drug from the seller. In short, what is material is the proof showing that the transaction or sale actually took place, coupled with the presentation in court of the thing sold as evidence of the corpus delicti. If a police officer goes through the operation as a buyer, as in this case, the crime is consummated when the police officer makes an offer to buy that is accepted by the accused, and there is an ensuing exchange between them involving the delivery of the dangerous drugs to the police officer.[19]

We agree with the court a quo that the prosecution was able to establish the concurrence of all the elements of illegal sale of dangerous drugs. During trial, the prosecution was able to prove beyond reasonable doubt the following: Firstly, the identity of appellant Del Valle as the person with whom the confidential informant and poseur-buyer, PO1 Bagain had contracted relative to the purchase of the shabu. Secondly, the subject of the sale transaction was established to be methylamphetamine hydrochloride or shabu which the PNP Crime Laboratory later on confirmed in due course to be a dangerous drug. Lastly, the consideration of the sale transaction in the amount of P 500.00.

In a prosecution for illegal sale of dangerous drugs, like shabu, what is important is the fact that the poseur-buyer received shabu from the accused-appellant and the same was presented as evidence in court, which the prosecution in this case was able to do. As has been previously discussed, all the elements of illegal sale of shabu were adequately proven and established by the prosecution.

Del Valle harps on the failure of the prosecution to prove his guilt beyond reasonable doubt. He contends that the court a quo gravely erred in disregarding his testimony regarding his illegal warrantless arrest. He insists that he

was inside their house at No. 56 Daang-Bakal, Marulas, Valenzuela City when four (4) persons suddenly entered the house; that they grabbed and handcuffed him and told him to go with them calmly; that he asked what his offense was, but was told to just go with them if he does not want to be harmed; that the arresting officers' motive in arresting him was to extort money from him in the amount of 100,000.00; and that because he and his co-accused Heredia and Sajucom did not pay the arresting officers, they were charged with violation of R.A. No. 9165.

Del Valle's claim of being the victim of a vicious frame-up and extortion is unworthy of serious consideration. The defense of extortion and/or frame-up is often put up in drugs cases in order to cast doubt on the credibility of police officers. This is a serious imputation of a crime hence clear and convincing evidence must be presented to support the same. There must also be a showing that the police officers were inspired by improper motives.[20] In this case, Del Valle did not adduce such evidence, for all he put up were self-serving denials. Had the version of the defense been the true facts that transpired, there was no reason for Del Valle not to have formally charged the police officers with the severely penalized offense of planting of evidence under Section 29[21] of Republic Act No. 9165 and extortion. Moreover, neither was it established during trial that PO1 Bagain or the other members of the buy-bust team, all of whom consistently testified regarding the details of the buy-bust operation, were impelled by improper motives. In view of these circumstances, Del Valle's allegation of extortion and improper motive deserves no credence.

We hearken to *People v. Aguilar*,[22] citing its ruling in *People v. Cruz*[23] that:

"Denial or frame-up is a standard defense ploy in most prosecutions for violation of the Dangerous Drugs Law. As such, it has been viewed by the court with disfavor for it can just as easily be concocted. It should not accord a redoubtable sanctuary to a person accused of drug dealing unless the evidence of such frame up is clear and convincing. Without proof of any intent on the part of the police officers to falsely impute appellant in the commission of a crime, the presumption of regularity in the performance of official duty and the principle that the findings of the trial court on the credibility of witnesses are entitled to great respect, deserve to prevail over the bare denials and self-serving claims of appellant that he had been framed up. Neither can appellant's claim of alleged extortion by the police operatives be entertained. Absent any proof, appellant's assertion of extortion allegedly committed by the police officers could not be successfully interposed. It remains one of those standard, worn-out, and impotent excuses of malefactors prosecuted for drug offenses. What appellant could have done was to prove his allegation and not just casually air it."

Del Valle tries to cast doubt on the credibility of the prosecution witnesses' testimonies. He contends that both PO1 Bagain and SPO2 Gomboc, as members of the District Anti-Illegal Drugs unit delivered incredible testimonies. He claims that PO1 Bagain's testimony, as corroborated by SPO2 Gomboc, regarding the place where the alleged transaction occurred, that is, along Justicia Street, Daang Bakal, Marulas, Valenzuela City, is not only highly improbable but also incredible; that the time of the alleged transaction, that is 6:30 in the morning, casts doubt on the veracity thereof; that it was expected that there be many people along the said street if indeed the buy-bust operation transpired at that time; and that no person in the right frame of mind would boldly hand over a shabu to a stranger and within the plain view of many passersby.

Anent the foregoing arguments, we cannot help but stress that in a prosecution for illegal sale of dangerous drugs, like shabu, what is important is the fact that the poseur-buyer received shabu from the accused-appellant and the same was presented as evidence in court, which the prosecution in this case was able to do. As has been previously discussed, all the elements of illegal sale of shabu were adequately proven and established by the prosecution. The findings of the court a quo, moreover, were based on the credible testimonies of the poseur-buyer, the members of the buy-bust team, as well as the other competent witnesses of the prosecution. We must remember that the trial judge's assessment of the credibility of the witnesses is entitled to respect. This is because of the trial judge's unique opportunity to observe the demeanor of the witnesses as they testified before

him.

Further, we can only agree with the trial judge's findings that the arrest of Del Valle was the result of a legitimate entrapment procedure. A buy-bust operation has been proven to be an effective mode of apprehending drug pushers. In this regard, police authorities are given a wide latitude in employing their own ways of trapping or apprehending drug dealers in flagrante delicto. There is no prescribed method on how the operation is to be conducted. As long as the constitutional rights of the suspected drug dealer are not violated, the regularity of the operation will always be upheld.[24] Therefore, if the buy-bust team decides to conduct their operations at a certain time of the day, or night, regardless of the condition of the place, or however its manner will be, as long as they comply with the requisites under the Constitution in apprehending the drug dealer, the Court is in no position to say that the same was erroneously made.

Del Valle contends that granting arguendo that he was caught in flagrante selling a dangerous drug, there was, however, non-compliance with Section 21 of Republic Act No. 9165. He insists that the prosecution failed to establish the unbroken chain of custody, making the integrity and the evidentiary value of the subject shabu not properly preserved. A careful review of the case, however, reveals that the chain of custody requirement had been sufficiently complied with.

To be able to identify the dangerous drug and effectively prove the corpus delicti, Section 21 of Republic Act No. 9165 and Section 21(a) of the Implementing Rules and Regulations of Republic Act No. 9165 (IRR) defined the procedures to be followed by the apprehending officers in the seizure and custody of the dangerous drugs.

Section 21 of Republic Act No. 9165 relevantly provides:

“Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending 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;”

Similarly, Section 21(a), IRR of Republic Act No. 9165 pertinently states:

“(a) The apprehending office/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;”

From the foregoing, it may be gleaned that to establish the chain of custody in a buy-bust operation the steps are as follows: first, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the

apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked, seized illegal drug from the forensic chemist to the court.[25]

The first link in the chain of custody refers to the seizure from Del Valle of the illegal drugs and the subsequent marking thereof. It should be observed from the testimony of PO1 Bagain that the specifics on how, where and when he marked with his initials “HAB/ADVP-1-11-20-10” (illegal sale) and “HAB/ADVP-2-11-20-10” (illegal possession) the two (2) confiscated plastic sachets which were recovered from the sale transaction, were established.[26] PO1 Bagain testified that he placed his markings on the seized items at the place where the buy-bust operation took place immediately after Del Valle's arrest.[27] The inventory of the seized items, however, took place at the DAID-SOG office because of the commotion that took place at the area of apprehension. The photographs of the confiscated items, buy-bust money and the arrested individuals were offered and presented as evidence during trial.

The second link in the chain of custody is the transfer of the seized shabu sachets by PO1 Bagain to the hands of the investigating officer, PO3 Rana at the police station. PO1 Bagain's testimony indicated that he personally took sole custody of the seized shabu sachets after Del Valle's arrest, made the proper markings thereon, and turned them over to PO3 Rana,[28] which the latter affirmed when he himself testified.[29] The turn-over of the seized items was evidenced by a document[30] dated 20 November 2010 signed by PO3 Llanderal, PO1 Bagain, SPO2 Gomboc, PO3 Cahilig and PO3 Rana. The latter also testified that upon receiving the seized items, he locked them inside a steel cabinet in the office, while waiting for the media representative, counsel and relatives of the accused. When Ka Maeng Santos arrived at the station, PO3 Rana brought out the items from the locker for the conduct of the drug inventory.[31]

The third link, which describes the transfer by the investigating officer of the illegal drug items to the forensic chemist for examination, had also been established. PO3 Rana testified that on 21 November 2010, a day after the arrest of the appellant, he, together with the other arresting officers delivered all the seized items, including that taken from co-accused Heredia and Sajucom and the requests for laboratory examination and drug test to the duty chemist at the PNP Crime Laboratory in Camp Crame.[32] Forensic Chemist Rodis confirmed in court her receipt of the seized items, more specifically the two (2) sealed plastic sachets pre-marked as “HAB/ADVP-1-11-20-10” and “HAB/ADVP-2-11-20-10”, from PO3 Rodis.[33] The forensic chemist likewise testified that upon her examination of the contents of the (2) plastic sachets, both tested positive for methamphetamine hydrochloride.[34]

The fourth and last link in the chain of custody may be said to be without blemish as the same was stipulated by the parties during their 02 December 2010 Preliminary Conference before the Branch Clerk of Court that, “(NOTE: Exhs. “G” to “L” were handed over to the undersigned by PCI Rodis for custody and presentation during the trial.)”[35]

From the foregoing discussions, there can be no reasonable doubt as to the identity of the seized shabu item, weighing 0.07 gram (involved in the illegal sale) and necessarily its respective evidentiary value. The prosecution effectively proved the elements of the crime of illegal sale of dangerous drugs to the point that reasonable doubt of the appellant's criminal liability is eliminated.

Del Valle's claim that he was never provided with a counsel during his investigation at the police station; and that he was not informed during investigation of his rights under Republic Act No. 7438,[36] deserve scant consideration. We observe that no extrajudicial statement was taken from Del Valle during his investigation,

hence, his right to counsel was not violated.[37] Besides, these issues should have been raised during his arraignment, and not for the first time on appeal. For this reason, he should be deemed to have waived any question as to the legality of his arrest.[38]

Section 5, Article II of Republic Act No. 9165 provides that the penalty for the illegal sale of dangerous drugs, like shabu, regardless of the quantity and purity, shall be life imprisonment to death and a fine ranging from P 500,000.00 to P 10,000,000.00.[39] Hence, the court a quo correctly imposed the penalty of life imprisonment and a fine of P 500,000.00 against appellant Del Valle.

WHEREFORE, the appeal is DENIED. Consequently, the assailed Decision is AFFIRMED.

IT IS SO ORDERED.

Salazar-Fernando (Chairperson) and Barrios,[*] JJ., concur.

[*]Actg. Third Member vice J. Gaerlan per Office Order No. 270-14-RSF dated 06 June 2014.

[1]Written by Presiding Judge Emma C. Matammu of Branch 269, Regional Trial Court of Valenzuela City in Criminal Case Nos. 1027-V-10, 1028-V-10, 1029-V-10 and 1030-V-10 dated 16 September 2011; Records, pp. 398-414.

[2] Records, p. 414.

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

xxx xxx xxx

[4] SECTION 11. Possession of Dangerous Drugs. — xxx xxx xxx

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

xxx xxx xxx

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

[5] Entitled as “An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, repealing Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, providing funds therefor, and for other purposes.”

[6] Records, p. 1.

[7] SECTION 12. Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs. — The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: Provided, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the purposes enumerated in the preceding paragraph shall be prima facie evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous drug and shall be presumed to have violated Section 15 of this Act.

[8] SECTION 15. Use of Dangerous Drugs. — A person apprehended or arrested, who is found to be positive for use of any dangerous drug, after a confirmatory test, shall be imposed a penalty of a minimum of six (6) months rehabilitation in a government center for the first offense, subject to the provisions of Article VIII of this Act. If apprehended using any dangerous drug for the second time, he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00): Provided, That this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided for under Section 11 of this Act, in which case the provisions stated therein shall apply. cHCalE

[9] Records, p. 32; Exh “V” (actual money not appended to the records)

[10] Ibid, p. 31; Exh “U”.

[11] Ibid, p. 30; Exh “T”.

[12] Records, pp . 19-20; Exh “D” and “D-1”.

[13] Ibid, p. 28; Exh. “R”.

[14] Ibid, p. 29; Exhs. “S” “S-1” “S-2” ”S-3” ”S-4”.

[15] Ibid, pp. 21-22; Exhs. “E” “F”.

[16] Records, p. 26; Exh. “N”. [17 Records, p. 25; Exh “P”.

[18] People v. Soriano, G.R. No. 189843, March 20, 2013, 694 SCRA 168; People v. Tapere, G.R. No. 178065, February 20, 2013, 691 SCRA 347; People v. Bartolome, G.R. No. 191726, February 6, 2013, 690 SCRA 159.

[19] People v. Bartolome, *ibid*.

[20] People v. Collado, G.R. No. 185719, June 17, 2013, 698 SCRA 628.

[21] SECTION 29. Criminal Liability for Planting of Evidence. — Any person who is found guilty of "planting" any dangerous drug and/or controlled precursor and essential chemical, regardless of quantity and purity, shall suffer the penalty of death.

[22] G.R. No. 191396, April 17, 2013, 696 SCRA 838.

[23] G.R. No. 187047, June 15, 2011, 652 SCRA 286.

[[24]] People v. Robelo, G.R. No. 184181, November 26, 2012, 686 SCRA 417.

[25] People v. Quesido, G.R. No. 189351, April 10, 2013, 695 SCRA 572; People v. Alviz, G.R. No. 177158, February 6, 2013, 690 SCRA 61; and People v. Lapasaran, G.R. No. 198820, December 10, 2012, 687 SCRA 663.

[26] TSN dated 09 March, 2011, pp. 7-12.

[27] TSN dated 09 March 2011, p. 12.

[28] Ibid, pp. 14-16.

[29] TSN dated 16 March 2011, p. 314.

[30] Records, p. 43.

[31] TSN dated 16 March 2011, pp. 21-24.

[32] Supra at footnote 31.

[33] TSN dated 14 January 2011, pp. 4-7.

[34] Ibid.

[35] Records, p. 193; Minutes of Preliminary Conference, p. 2.

[36] "An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof." This was approved on 27 April 1992.

[37] People v. Villahermosa, G.R. No. 186465, June 01, 2011, 650 SCRA 256.

[38] People v. Santiago, G.R. No. 191061, February 09, 2011, 642 SCRA 639.

[39] Supra at footnote 3.

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