

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUBY ORBE Y LEGASPI ALIAS “NENENG”, ACCUSED-APPELLANT.

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

The Case

This is an appeal by Ruby Orbe y Legaspi alias “Neneng” from the Decision dated October 9, 2012 rendered by Branch 25 of the Regional Trial Court in Iloilo City in Crim. Case Nos. 10-68326; 10-68327; and 10-68328 which convicted her of violation of Section 5, in relation to Section 26 and Section 11 all under Article II of the Comprehensive Dangerous Drugs Act of 2002[1] and sentenced her to life imprisonment for Violation of Sec. 5 of R.A. 9165 and imprisonment of 12 years to 14 years for Violation of Sec. 11 of R.A. 9165.

The Antecedent Facts

Culled from the records, prosecution's version of the incident is as follows:

On January 15, 2010, Police Chief Inspector Ramir Gallardo (Major Gallardo) received information that a certain Ruby Orbe was engaged in the selling of shabu in Barangay Bakhaw, Mandurriao, Iloilo City.[2] PO1 Rexie Diaz (PO1 Diaz) accompanied by a civilian agent, then went to Barangay Bakhaw to verify the said information about Orbe's illegal activities.[3] During the said verification operation, the civilian agent introduced PO1 Diaz to Orbe as a certain “Jerome” from Oton, Iloilo. After conducting the said verification, PO1 Diaz concluded that Orbe was indeed a “Marot” or a drug pusher, however, she did not sell anything to them because she allegedly will not sell to a person whose identity she is not acquainted with.[4]

On February 6, 2010, PO1 Diaz went back to Barangay Bakhaw together with his confidential agent, and this time, the agent was able to buy P500.00 worth of shabu, and the purchase was witnessed by PO1 Diaz.[5]

After the successful test buy conducted on February 6, 2010, Major Gallardo then composed a team on February 8, 2010 to conduct a buy-bust operation against Orbe. SPO2 Jose Espina (SPO2 Espina) acted as Team Leader, SPO1 Gerson Deypalubos, as back-up, PO1 Morales and PO1 Hiponia, as members of the team and PO1 Acap, as close-in back up and PO1 Diaz, as poseur-buyer.[6] Major Gallardo gave PO1 Diaz a total of five-hundred (P500.00) pesos as buy-bust money, composed of one (1) two-hundred (P200.00) peso bill, two (2) one-hundred (P100.00) peso bills and two (2) fifty-peso (P50.00) bills. PO1 Diaz then marked the said bills by putting a “check” mark on one side of each bill and writing his initials “R.E.D.” on the other sides thereof.[7] The arrangement agreed upon by the team during the briefing was that, after the transaction was to be completed, PO1 Diaz will execute a pre-arranged signal to prompt PO1 Acap to make a “miscall” to the Team Leader, who will then proceed to their area and make the arrest.[8]

At 3:10 in the afternoon of the same day, PO1 Diaz, together with PO1 Acap arrived at the house of Orbe in Barangay Bakhaw.[9] Upon seeing Orbe in front of her house, PO1 Diaz signified his intention to buy shabu. Orbe then told them to wait outside because there were other people still inside the house. Once the other people

went out of the house, Orbe then invited PO1 Diaz and PO1 Acap to come inside her house, and once inside, they followed Orbe to her room.[10] When asked by Orbe how much he was intending to purchase, PO1 Diaz told her that he wanted to purchase one (1) gram worth of shabu. Orbe however declined the offer, saying that previous buyers already left her with less than enough.[11] However, when PO1 Diaz told Orbe that he was willing to purchase a lesser amount and gave her the marked money, the latter accepted and placed the money inside a red wallet.[12] After receiving the money and placing the same in her red wallet, Orbe then told Del Rosario to give them P500.00 worth of shabu, consisting of one sachet and examined its contents, he immediately executed the pre-arranged signal – allegedly prompting PO1 Acap to make the agreed upon “miscall”. [13] When the back-up arrived, the team then introduced themselves as policemen and affected the arrest. Orbe was arrested personally by PO1 Diaz while co-accused Del Rosario was arrested by PO1 Acap.[14] After herein appellant and Del Rosario were apprised by the arresting officers of the nature of their offense as well as their constitutional rights, the team conducted a limited search within the room, the area of the arrest.[15] The first plastic sachet of shabu bought from Orbe being already in his possession, PO1 Diaz placed the markings “RLO-BB” on it. Three (3) plastic sachets allegedly containing shabu were likewise recovered from the above limited search and were forthwith marked with “RLO-1”, “RLO-2” and “RLO-3” respectively. Another three (3) plastic sachet containing what appears to be shabu residue were likewise recovered on top of Orbe's bed and the same were likewise marked as “RLO-4”, “RLO-5” and “RLO-6” respectively. Orbe's red wallet where the buy-bust money was hidden was likewise recovered and marked on the spot as “RLO-7”. [16]

An inventory of the seized items was then conducted right away within the house of Ruby Orbe, in the presence of accused-appellant herself, accused Del Rosario, the arresting officers, Barangay Captain Ruby Galano, Kagawad Eduardo Alegrado, media representative Julius Padilla, and the photographer, PO1 Vladimir Andalos (although the accused refused to sign the Inventory of the Confiscated and Seized Articles).[17]

On the same day, and immediately after the conduct of the inventory, PO1 Diaz put all the pieces of evidence inside two (2) plastic bags and then proceeded to the PNP Crime Laboratory, and there, he personally submitted the sachets of shabu for examination at around 7:40 o'clock in the evening. The laboratory examination was then conducted by Police Senior Inspector Ma. Cecilia G. Tang (PSI Tang), a Forensic Chemist of the PNP Regional Crime Laboratory.[18] The results for the laboratory examination of the seized plastic sachets designated as “RLO-BB”, as well as the other plastic sachets designated as “RLO-1” to “RLO-6”, came out positive for Methamphetamine hydrochloride, or shabu. The results were all detailed in Chemistry Report No. 028-2010.[19]

Accused-appellant Orbe and former co-accused John Del Rosario were both indicted in three separate informations for violation of Section 5 in relation to Section 26, Section 11 and Section 12 all under Article II of Republic Act No. 9165[20], to wit:

Criminal Case No. 10-68326[21]

“That on or about the 8[th] day of February 2010 Iloilo City, Philippines, and within the jurisdiction of this Honorable Court, both above-named accused, in conspiracy with one another, with deliberate intent, did, then and there willfully, unlawfully and criminally sell, distribute and deliver to PNP poseur-buyer one (1) piece elongated heat-sealed plastic sachet containing methamphetamine hydrochloride (shabu), a dangerous drug, weighing 0.04 grams in consideration of Five Hundred Pesos (Php500.00), without authority of law and legal justification to sell and distribute the same in violation of the said law; that one (1) – Two Hundred Peso bill with Serial Number GV950777, two (2)-One hundred Pesos bill with Serial Numbers NC 291614 and WY201509 and two (2) pieces marked fifty peso bills with Serial Numbers QGO49912 and GR203713 used as buy bust money were recovered from the possession of the herein Accused.”

Criminal Case No. 10-68327[22]

“That on or about the 8[th] day of February 2010 Iloilo City, Philippines and within the jurisdiction of this Honorable Court, both above-named accused, not being lawfully authorized to possess any dangerous drug, did, then and there willfully, unlawfully and criminally have in their possession and under their custody and control one (1) big heat-sealed transparent plastic sachet containing 0.06 grams of white crystalline substance and two (2) small heat-sealed plastic sachets containing 0.03 grams and 0.02 grams of white crystalline substance which was found positive to the test for methamphetamine hydrochloride, a dangerous drug in violation of the said law.”

Criminal Case No. 10-68328[23]

“That on or about the 8[th] day of February 2010 Iloilo City, Philippines, and within the jurisdiction of this Honorable Court, both above-named accused, with deliberate intent and without justifiable motive, did, then and there willfully, unlawfully and criminally have in their possession, custody and control three (3) pieces small plastic sachets containing 'shabu' residues, two (2) pieces disposable lighters used as scissors, two (2) pieces bamboo sticks, several pieces of rolled and crumpled cut foils, several empty plastic packs, one (1) heat sealed plastic sachet containing aluminum foils, all paraphernalia/equipment fit and intended for administering, consuming, ingesting and introducing into the body Methamphetamine Hydrochloride 'shabu', a dangerous drug, without authority to possess the same.”

When arraigned, the accused-appellant Orbe and her co-accused pleaded not guilty to all Informations.[24] Thereafter, trial on the merits ensued.

The prosecution presented the testimonies of P/SInsp. Ma. Cecilia G. Tang, PO1 Vladimir Andaluz, PO1 Rexie Diaz and PO2 Federico Ygan. The defense on the other hand presented accused-appellant Orbe, Dennis Orbe, Rizza Villarosa and John Del Rosario.

On October 9, 2012, Judgment was rendered by the trial court, the dispositive portion of which, states:

“Wherefore, the Court desists from pronouncing a verdict of guilty as to John Del Rosario. There is no clear evidence that he himself was engaged in the selling of shabu or possession thereof. He is acquitted of the offense charged.

The Court finds Ruby Orbe guilty of the offense charged. She is also pronounced guilty beyond reasonable doubt of possession of other sachets of shabu.

Wherefore, the Court imposes upon Ruby Orbe the penalty of life imprisonment for Violation of Sec. 5 of R.A. 9165 and imprisonment of 12 years to 14 years for Violation of sec. 11 of R.A. 9165.

There is lack of evidence for violation of Sec. 12 of R.A. 9165 she is acquitted of the same.

The dangerous drugs are ordered to be turned over to the PDEA for destruction.

SO ORDERED.”

The trial court found the herein accused-appellant Orbe guilty as charged for violation of Sec. 5 and Sec. 11 of R.A. 9165. However, the trial court acquitted Orbe for violation of Sec. 12 of R.A. 9165 due to lack of evidence. The said court likewise acquitted Orbe's co-accused, John Del Rosario, also for lack of evidence.

Aggrieved, the accused-appellant filed the instant appeal based on the following assignments of error:

- That the trial court failed to give credit to the testimonies of the accused and her witnesses.
- That the trial court erred in giving credence to the testimony of the arresting police officers.

Accused-appellant's submissions:

The accused-appellant Orbe contends that her guilt was not proven beyond reasonable doubt. Orbe asserts that the procedure for the custody and disposition of confiscated dangerous drugs as laid down in Section 21 of RA 9165 were not complied with.

Appellant insists that at the time of the alleged buy-bust operation, appellant Orbe was dragged inside her house by PO1 Diaz and PO1 Acop, as testified to by defense witnesses Rizza Villarosa and Dennis Orbe (accused-appellant's daughter and husband, respectively) and as witnessed by former co-accused John Del Rosario who were all inside Orbe's house when the incident took place.

Appellant Orbe argues, that the testimonies of prosecution witnesses are inconsistent and uncorroborated on its material points. Only PO1 Diaz, the poseur-buyer, was present during the alleged buy-bust operation. The prosecution evidence further shows that when the photographer arrived, the drugs and other seized items were already laid out on the bed inside the room of appellant Orbe. Hence, the testimony of PO1 Diaz is insufficient to establish the supposed sale and possession of illegal drugs when pitted against the testimonies of the defense witnesses who saw and vividly narrated how appellant Orbe was framed by the police.

Appellant Orbe point to the following inconsistencies in the testimonies of the prosecution witnesses:

1. That PO1 Andalos has been a police officer for only four years and yet he testified that he has been an exhibit custodian for the police from 2002 or a period of eight (8) years at the time he testified[25].
2. That Police Officer Vladimir Andalos testified that he went together with Inspector Gallardo to the house of appellant Orbe and picked up Prosecutor Javier on the way and the three of them arrived together at the scene of the crime.[26] However, the testimony of PO1 Diaz shows that PO1 Andalos arrived first then followed by Prosecutor Javier ten minutes later.[27] The testimonies of the prosecution also show a disparity in the time of the buy-bust operation and the actual time when the witnesses to the drug inventory arrived at the crime scene[28].
3. The police officers who planned and conducted the buy-bust operation intended to purchase one gram of shabu which would be valued at more or less P6,000.00 but only brought P500.00 as buy bust money[29].
4. That PO1 Diaz testified that the seized items were recovered in the presence of the DOJ and barangay representatives when in truth and in fact, the confiscated items were already laid out in bed when the witnesses to the inventory arrived at appellant Orbe's house.

Finally, appellant Orbe points out that the prosecution failed to establish proper chain of custody of the seized items as it failed to present SPO2 Salcedo who took custody of the said illegal drugs subject matter of this case before and after its examination. There is also no showing that the subject illegal drugs were taken into custody by the prosecution witnesses, how the seized drugs were handled and how the supposed custodians kept the identity and integrity of the seized drugs or if they are even the same items that were allegedly seized from appellant Orbe's home.

The People of the Philippines' submissions:

The appellee, through the Office of the Solicitor General argues that the defense of denial and frame up are considered weak defenses and have been viewed with disfavor because they can be easily concocted but difficult to prove.

The People submits that contrary to the appellant's contention, all the elements to constitute the illegal sale of dangerous drugs have been proven. Likewise, all the essential elements necessary to prove the illegal possession of drugs are undeniably present.

Finally, the the appellee contends that an unbroken chain of custody was clearly established by the prosecution to

be in accordance with Section 21 of R.A. 9165. Even if there were lapses in the chain of custody, the same does not automatically render the arrest illegal or the seized items inadmissible.

Ruling of this Court

The appeal is without merit.

Appellant Orbe has tried but failed to cast doubt on the credibility of prosecution witnesses. Her main contention in this appeal is that the testimonies of the prosecution witnesses, especially that of the poseur buyer PO1 Diaz are so riddled with inconsistencies so as to render it of little or no probative value. In particular, appellant Orbe points to the following supposed inconsistencies:

1. That PO1 Andalos has been a police officer for only four years and yet he testified that he has been an exhibit custodian for the police from 2002 or a period of eight (8) years at the time he testified[30].
2. That Police Officer Vladimir Andalos testified that he went together with Inspector Gallardo to the house of appellant Orbe and picked up Prosecutor Javier on the way and the three of them arrived together at the scene of the crime.[31] However, the testimony of PO1 Diaz shows that PO1 Andalos arrived first then followed by Prosecutor Javier ten minutes later.[32] The testimonies of the prosecution also show a disparity in the time of the buy-bust operation and the actual time when the witnesses to the drug inventory arrived at the crime scene[33].
3. The police officers who planned and conducted the buy-bust operation intended to purchase one gram of shabu which would be valued at more or less P6,000.00 but only brought P500.00 as buy bust money[34].
4. That PO1 Diaz testified that the seized items were recovered in the presence of the DOJ and barangay representatives when in truth and in fact, the confiscated items were already laid out in bed when the witnesses to the inventory arrived at appellant Orbe's house.

However, these supposed inconsistencies pointed at by appellant Orbe are trivial and inconsequential as to discredit the prosecution witnesses' testimonies. The purported inconsistencies do not in any way affect the plausibility of prosecution witnesses' testimonies, especially the straightforward and positive account of PO1 Diaz who acted as poseur buyer during the buy-bust operation.

As held by the Supreme Court in *People vs. Sobangee*[35], minor variances in the details of the witnesses' accounts, more frequently than not, are badges of truth rather than indicia of falsehood, and they often bolster the probative value of their testimonies. In the *Sobangee* case, the accused-appellant tried to cast doubt on the credibility of the prosecution witnesses by pointing to inconsistencies in the testimonies of the police officers who conducted the buy bust operation, to wit:

“These pieces of information, however, do not destroy the foundation that the prosecution has built in proving accused-appellant’s culpability. These are but irrelevant inconsistencies that do not take away the credibility of the police officers who testified against accused-appellant. Considering there were five (5) police officers who testified on the buy-bust operation, one can hardly expect their testimonies to be in perfect agreement. As held in the past, it is perhaps too much to hope that different eyewitnesses shall give, at all times, testimonies that are in all fours with the realities on the ground. Minor discrepancies in their testimonies are, in fact, to be expected; they neither vitiate the essential integrity of the evidence in its material entirety nor reflect adversely on the credibility of witnesses. For a successful appeal, the inconsistencies brought up should pertain to that crucial moment when the accused was caught selling shabu, not to peripheral matters. Testimonies of witnesses need only corroborate each other on important and relevant details concerning the principal occurrence.”

Evidence for the prosecution sufficient to convict appellant

The offense of selling dangerous drugs, of which Methamphetamine hydrochloride or shabu is one, has been proven. It bears stressing that what is material to the prosecution for illegal sale of drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti.[36] The elements of the offense, namely, (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,[37] are present.

In this case, the identities of the buyer (PO1 Diaz) and the seller (appellant Orbe) have been more than adequately established by the prosecution.[38] PO1 Diaz testified that he executed the buy-bust operation together with PO1 Acap and some other policemen. PO1 Diaz, who acted as the operation's poseur buyer, testified that it was appellant Orbe who was the subject of the buy-bust operation and positively identified her as the one who sold shabu to him as well as the one in whose possession the additional plastic sachets of shabu were recovered.[39] The testimony of PO1 Diaz further showed that the object of the sale was the purchase of shabu, and the consideration therefore, was P500.00[40].

When the seized drugs were submitted for laboratory examination, PSI Tang weighed the contents of the seized plastic sachet subject of the illegal sale and conducted laboratory examination thereon. The results of the same turned out to be positive for Methamphetamine hydrochloride.[41]

The prosecution having established all the elements of the crime of illegal sale under Section 5, Article II of R.A. 9165, the trial court thus committed no error in convicting appellant Orbe for the crime charged.

On the other hand, for illegal possession of regulated or prohibited drugs, punished under Section 11, Article II[42] of RA 9165, the prosecution must establish the following elements: (1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.[43] Unfortunately for appellant, all these three elements are present.

It was undisputed during the trial that indeed, the room where the alleged transaction took place as well as where the subject plastic sachets were found, was inside a house occupied by appellant Orbe. Thus, after a limited search was conducted immediately after the appellant Orbe's arrest, three (3) plastic sachets containing shabu were found on top of the bed in the same room where the transaction took place.

In this case, one (1) big heat-sealed plastic sachet and two (2) small heat-sealed plastic sachets containing white crystalline substance, as well as three (3) small plastic sachets containing residue of white crystalline substance were recovered on top of the bed of appellant Orbe. These plastic sachets were then subjected to a laboratory examination by PSI Tang and the tests conclusively show that the white crystalline substance contained in the said sachets were found to be Methamphetamine hydrochloride – a dangerous drug referred to under Section 11, par. 2 (3) of Article II of R.A. 9165. Finally, appellant Orbe's movements before and during the arrest clearly indicate that appellant Orbe was freely and consciously aware that she was in possession of shabu.

The chain of custody was clearly established by the prosecution

Appellant Orbe faults the trial court for finding herein appellant guilty despite the alleged broken chain of custody. Appellant argues that the prosecution failed to prove two stages in the chain of custody by failing to present SPO2 Salcedo, the exhibit custodian who had custody of the illegal drugs, before and after its examination in the crime laboratory.

However, the record shows that the integrity and evidentiary value of the seized items were preserved from the moment of seizure up to its presentation in court[44].

The testimony of PO1 Diaz shows that after the arrest of appellant Orbe, PO1 Diaz immediately performed an inventory of all the seized items within the premises where the arrest was made. The first plastic sachet of shabu bought from Orbe being already in his possession, PO1 Diaz placed the markings “RLO-BB” on it. Three (3) plastic sachets allegedly containing shabu were likewise recovered from the above limited search and were forthwith marked with “RLO-1”, “RLO-2” and “RLO-3” respectively. Another three (3) plastic sachet containing what appears to be shabu residue were likewise recovered on top of Orbe's bed and the same were likewise marked as “RLO-4”, “RLO-5” and “RLO-6” respectively. Orbe's red wallet where the buy-bust money was hidden was likewise recovered and marked on the spot as “RLO-7”.[45]

An inventory of the seized items was then conducted right away within the house of Ruby Orbe, in the presence of accused-appellant herself, accused Del Rosario, the arresting officers, Barangay Captain Ruby Galano, Kagawad Eduardo Alegrado, media representative Julius Padilla, and the photographer, PO1 Vladimir Andalos (although the accused refused to sign the Inventory of the Confiscated and Seized Articles).[46] All these were memorialized in photographs taken by PO1 Vladimir Andalos and marked as prosecution's Exhibits “Y” to “Z” and “AA”[47].

On the same day, and immediately after the conduct of the inventory, PO1 Diaz put all the pieces of evidence inside two (2) plastic bags and then proceeded to the PNP Crime Laboratory, and there, he personally submitted the sachets of shabu for examination at around 7:40 o'clock in the evening. The laboratory examination was then conducted by Police Senior Inspector Ma. Cecilia G. Tang (PSI Tang), a Forensic Chemist of the PNP Regional Crime Laboratory.[48] The results for the laboratory examination of the seized plastic sachets designated as “RLO-BB”, as well as the other plastic sachets designated as “RLO-1” to “RLO-6”, came out positive for Methamphetamine Hydrochloride, or shabu. The results were all detailed in Chemistry Report No. 028-2010.[49]

Jurisprudence dictates that transgressions of Section 21 of Republic Act 9165 do not automatically result to an acquittal. In *People vs. Teodoro*[50] the Supreme Court reiterated the principle that non-compliance with Section 21 will not render an accused's arrest illegal or the items seized/ confiscated from him inadmissible. 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.

Moreover, it is a well-accepted rule that in cases involving violations of the Dangerous Drugs, credence is given to prosecution witnesses who are law enforcement personnel for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.[51]

In this case, appellant Orbe has not imputed any ill-motive on the part of the police officers who conducted the buy-bust operation. No evidence was presented to show that appellant Orbe's apprehension was resorted to in order to harass, extort or abuse. Appellant did not cite any previous misunderstanding that could have motivated the police officers to falsely charge her with a heinous crime.

Correctness of the penalty imposed

The sale of dangerous drugs is punished by Section 5,[52] Article II of RA 9165. To conform to the first paragraph of Section 5 of the said law, the assailed decision must be modified to include the imposition of a fine of Five Hundred Thousand Pesos (P500,000.00).

With regard to the penalty imposed upon the appellant for the crime of possession, Section 11, Article II, RA 9165 provides:

“(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."

Applying the Indeterminate Sentence Law, the minimum period of the imposable penalty shall not fall below the minimum period set by law; the maximum period shall not exceed the maximum period allowed under the law. The trial court imposed 12 years to 14 years imprisonment but failed to impose a fine. Thus, the assailed decision must be further modified to include the imposition of a fine of Three Hundred Thousand Pesos (P300,000.00).

WHEREFORE, the decision dated October 9, 2012 rendered in Crim. Case Nos. 10-68326, 10-68327, 10-68328 by Branch 25 of the Regional Trial Court in Iloilo City is hereby AFFIRMED except as to the penalty imposed, which is MODIFIED to include a fine of Five Hundred Thousand Pesos (P500,000.00) for violation of Section 5, Article II of R.A. 9165; and a fine of Three Hundred Thousand Pesos (P300,000.00) for violation of Section 11, Article II of R.A. 9165.

SO ORDERED.

Maxino, and Francisco, JJ., concur.

[1] Republic Act 9165.

[2] TSN dated June 10, 2010, page 6.

[3] TSN dated June 10, 2010, page 7.

[4] Ibid.

[5] TSN dated June 10, 2010, page 8.

[6] TSN dated June 10, 2010, page 8.

[7] Pages 10-11, TSN dated June 10, 2010, Exhibits "N", "O", "P", "Q" and "R".

[8] Pages 12-13, TSN dated June 10, 2010.

[9] Pages 13-14, TSN dated June 10, 2010

[10] Ibid.

[11] Page 15, TSN dated June 10, 2010

[12] Ibid.

[13] Pages 16-17, TSN dated June 10, 2010

[14] Ibid.

[15] Page 18, TSN dated June 10, 2010

[16] Page 20, TSN dated June 10, 2010

[17] Pages 23-24, TSN dated June 10, 2010, Exhibit "BB".

[18] Pages 3-19, TSN dated April 15, 2010

- [19] Page 22, TSN dated April 15, 2010, page 18, original record.
- [20] Also known as “Comprehensive Dangerous Drugs Act of 2002”
- [21] Page 1, original record Crim Case No. 10-68326
- [22] Page 1, original record Crim Case No. 10-68327
- [23] Quoted from page 2 of the Decision dated October 9, 2012, page 237, original record.
- [24] Order dated March 17, 2010, page 51, original record.
- [25] TSN, June 3, 2010, pp. 4-5.
- [26] TSN, June 3, 2010, page 6.
- [27] TSN, June 10, 2010, page 48
- [28] TSN, June 10, 2010, p. 45; TSN, June 3, 2010, pp. 17 and 31.
- [29] TSN, June 10, 2010, pp. 40-41, 45
- [30] TSN, June 3, 2010, pp. 4-5.
- [31] TSN, June 3, 2010, page 6.
- [32] TSN, June 10, 2010, page 48
- [33] TSN, June 10, 2010, p. 45; TSN, June 3, 2010, pp. 17 and 31.
- [34] TSN, June 10, 2010, pp. 40-41, 45.
- [35] G.R. No. 186120, January 31, 2011.
- [36] People v. Pagkalinawan, G.R. No. 184805, 3 March 2010
- [37] People v. Manlangit, G.R. No. 189806, 12 January 2011 citing People v. Macatingag, G.R. No. 181037, 19 January 2009.
- [38] TSN, June 10, 2010, pp. 8-9.
- [39] TSN, June 10, 2010, pp. 9, 15-16 and 28.
- [40] TSN, June 10, 2010, pp. 15-16 and 28.
- [41] TSN, April 15, 2010, pp. 12-13.
- [42] Section 11. Possession of Dangerous Drugs. - 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:
- (1) 10 grams or more of opium;
 - (2) 10 grams or more of morphine;
 - (3) 10 grams or more of heroin;
 - (4) 10 grams or more of cocaine or cocaine hydrochloride;

- (5) 50 grams or more of methamphetamine hydrochloride or "shabu";
- (6) 10 grams or more of marijuana resin or marijuana resin oil;
- (7) 500 grams or more of marijuana; and
- (8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDA) or "ecstasy", paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxyamphetamine (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, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

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

- (1) Life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or "shabu" is ten (10) grams or more but less than fifty (50) grams;
- (2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) 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 three hundred (300) grams or more but less than five (hundred) 500) grams of marijuana; and
- (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.

[43] *Asiatico v. People*, G.R. No. 195005, 12 September 2011.

[44] TSN, June 10, 2010, pp. 19-26.

[45] Page 20, TSN dated June 10, 2010

[46] Pages 23-24, TSN dated June 10, 2010, Exhibit "BB".

[47] TSN, June 3, 2010, page 15; Exhibits Y-Z and AA are found on pp. 95-97 of original record.

[48] Pages 3-19, TSN dated April 15, 2010

[49] Page 22, TSN dated April 15, 2010, page 18, original record.

[50] G.R. No. 185164, June 22, 2009.

[51] *People vs. Bongalon*, 374 SCRA 289.

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

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