

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ZAIDA KAMAD Y AMBING, ACCUSED-APPELLANT.

G.R. No. 174198. January 19, 2010

Ponente: BRION, J.

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BRION, J.:

We review the decision[1] of the Court of Appeals[2] (CA) in CA-G.R. CR-H.C. No. 00505 which affirmed in toto the decision[3] of the Regional Trial Court (RTC), Branch 259, Parañaque City[4] in Criminal Case Nos. 02-1236-7 finding Zaida[5] Kamad y Ambing (accused-appellant) guilty beyond reasonable doubt of illegal sale of shabu under Section 5, Article II of Republic Act No. 9165 (RA 9165) or the Comprehensive Dangerous Drugs Act of 2002.

Along with her boyfriend Leo Ramirez y Acosta (Leo) who was charged for illegal possession of shabu, the accused-appellant was charged under an Information[6] that reads:

The above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously give away, distribute and sell to a customer for P300.00 pesos one (1) small heat sealed transparent plastic sachet containing crystalline substance (shabu) weighing 0.20 gram, which when examined were found positive for Methamphetamine Hydrochloride (shabu), a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.

The accused-appellant pleaded not guilty on arraignment. Trial on the merits thereafter ensued.

The prosecution's version of events is summarized below.

On October 16, 2002, the Philippine National Police (PNP) Drug Enforcement Unit of the Southern Police District, Fort Bonifacio, Taguig (Taguig police) received information from an asset that a certain "Zaida" was engaged in the illegal sale of shabu at Purok IV, Silverio Compound in Parañaque City. The Taguig police formed a buy-bust team composed of P/Insp. Antonio Parillas,[7] PO3 Christopher Maulit[8] (PO3 Maulit), PO1 Manfoste,[9] SPO2 Arthur Velasco, and SPO2 Ernesto Sanchez[10] (SPO2 Sanchez), as members. SPO2 Sanchez acted as poseur-buyer and received three (3) one hundred peso bills for use as marked money.

After surveillance of the area, the buy-bust team and their asset proceeded at around 10:00 p.m. of October 16, 2002 to the target area where they immediately saw the accused-appellant and Leo. The asset and SPO2 Sanchez approached the two while the rest of the buy-bust team watched from a distance. The asset introduced SPO2 Sanchez as a buyer of shabu and the accused-appellant asked him how much he would buy. SPO2 Sanchez asked for P300.00 worth of shabu and gave the marked money; the accused-appellant thereafter handed him a plastic sachet containing a substance suspected to be shabu. SPO2 Sanchez lighted a cigarette to give the pre-arranged signal for the buy-bust team to approach. SPO2 Sanchez arrested the accused-appellant and recovered from her the P300.00 marked money. The buy-bust team arrested Leo who was found in possession of one (1) plastic

sachet also suspected to contain shabu.

The buy-bust team took the accused-appellant and Leo and the recovered plastic sachets to their office for investigation. The recovered plastic sachets, marked as "ES-1-161009" and "ES-2-161002," were then brought to the PNP Crime Laboratory for qualitative examination; the tests yielded positive results for methamphetamine hydrochloride.[11]

The defense expectedly presented a different version of events.

The accused-appellant[12] denied the charge and claimed that she and Leo were framed-up. At around 2:30 p.m. of October 16, 2002, the accused-appellant and Leo went to Leo's cousin's house. Since Leo's cousin was not yet at home, she and Leo waited. After waiting for an hour, four (4) men wearing civilian clothes and carrying firearms entered the house and introduced themselves as police officers. The accused-appellant and Leo were frisked, but nothing was found in their possession. The police officers asked the accused-appellant where she kept the shabu; she replied that she was not selling shabu. Afterwards, she and Leo were taken to the police headquarters where they were again frisked and asked the same question to which they gave the same response. The police detained Leo and the accused-appellant for about a day and later brought them to the Prosecutor's Office for inquest without showing them any shabu.

THE RTC RULING

After consideration of the evidence, the RTC decreed:

WHEREFORE, PREMISES CONSIDERED, finding both accused GUILTY beyond reasonable doubt, this Court hereby sentences Zaida Kamad to life imprisonment and to pay a fine of P500,000.00 for Violation of Section 5, Art. II, RA 9165 ...

x x x x

SO ORDERED.[13]

The accused-appellant appealed the RTC decision to the CA, attacking the RTC's reliance on the presumption of regularity that the RTC found to have attended the conduct of the buy-bust operation by the police. She argued that no presumption of regularity could arise considering that the police violated NAPOLCOM rules by using an asset; the rules prohibit the deputation of private persons as PNP civilian agents.[14] The accused-appellant also pointed out the material inconsistencies in the testimony of the prosecution witnesses that cast doubt on their credibility, namely: (a) the uncertainty of SPO2 Sanchez regarding the time the buy-bust team was dispatched to the target area; (b) the confusion of PO3 Maulit on the identity of the team leader of the buy-bust team; (c) the admitted mistake of PO3 Maulit that only the recovered plastic sachet was marked "ES" (standing for the initials of SPO2 Sanchez), while the marked money was marked "MF" (standing for the initials of P/Insp. Mariano F. Fegarido as commanding officer); and (d) the contradictory statements of PO3 Maulit who testified that it was Leo who sold the shabu and that of SPO2 Sanchez who testified that it was the accused-appellant who sold him the shabu.

THE CA RULING

The CA rejected the defense arguments and affirmed in toto the RTC findings. The CA ruled that the prosecution satisfactorily established the accused-appellant's guilt based on the positive testimony of SPO2 Sanchez on the conduct of the buy-bust operation; his testimony bore badges of truth. Accordingly, the CA found the accused-appellant's uncorroborated denial undeserving of any weight. The CA brushed aside as a minor

inconsistency the uncertainty in the testimony of SPO2 Sanchez on the time the buy-bust operation took place. The CA also brushed aside the violation of the NAPOLCOM rules on the ground that the accused-appellant was arrested in flagrante delicto for illegal sale of shabu committed in the presence of the prosecution witnesses who were police officers. Moreover, the CA held that the use of assets to aid police officers in buy-bust operations has been judicially recognized. The CA found that while the asset brokered the shabu transaction, he had no role in the apprehension of the accused-appellant and in the search and seizure of the shabu from the accused-appellant.

THE ISSUE

The only issue in this case is whether the accused-appellant is guilty beyond reasonable doubt of violation of Section 5, Article II of RA 9165 for the illegal sale of 0.20 gram of shabu.

THE COURT'S RULING

We draw attention at the outset to the unique nature of an appeal in a criminal case; the appeal throws the whole case open for review and it is the duty of the appellate court to correct, cite and appreciate errors in the appealed judgment whether they are assigned or unassigned.[15] We find the present appeal meritorious on the basis of such review.

As a general rule, the trial court's findings of fact, especially when affirmed by the CA, are entitled to great weight and will not be disturbed on appeal. This rule, however, admits of exceptions and does not apply where facts of weight and substance with direct and material bearing on the final outcome of the case have been overlooked, misapprehended or misapplied.[16] After due consideration of the records of this case, the evidence adduced, and the applicable law and jurisprudence, we hold that a deviation from the general rule is warranted.

In a prosecution for illegal sale of dangerous drugs, the following elements must be duly established: (1) proof that the transaction or sale took place; and (2) the presentation in court of the corpus delicti or the illicit drug as evidence.[17] Proof of the corpus delicti in a buy-bust situation requires evidence, not only that the transacted drugs actually exist, but evidence as well that the drugs seized and examined are the same drugs presented in court. This is a condition sine qua non for conviction as the drugs are the main subject of the illegal sale constituting the crime and their existence and identification must be proven for the crime to exist. As we discuss below, the special characteristics of prohibited drugs necessitate their strict identification by the prosecution.[18]

Our examination of the records shows that while the prosecution established through the testimony of SPO2 Sanchez that the sale of the prohibited drug by the accused-appellant took place, we find that both the RTC and the CA failed to consider the following infirmities in the prosecution's case: (1) the serious lapses in the RA 9165 procedure committed by the buy-bust team in handling the seized shabu; and (2) the failure of the police to comply with the chain of custody rule in handling the seized shabu, resulting in the prosecution's failure to properly identify the shabu offered in court as the same shabu seized from the accused-appellant on October 16, 2002.

Non-compliance with the prescribed procedure under Section 21, Article II of RA 9165

In *People v. Garcia*,[19] we emphasized the prosecution's duty to adduce evidence proving compliance by the buy-bust team with the prescribed procedure laid down under paragraph 1, Section 21, Article II of RA 9165. This provision reads:

- 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. [emphasis supplied]

The Implementing Rules and Regulations of RA 9165 under its Section 21(a) provides further details on how RA 9165 is to be applied, and provides too for a saving mechanism in case no strict compliance with the requirements took place. Section 21(a) 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, 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.[Emphasis supplied.]

Strict compliance with the prescribed procedure is required because of the illegal drug's unique characteristic rendering it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise.[20] Hence, the rules on the measures to be observed during and after the seizure, during the custody and transfer of the drugs for examination, and at all times up to their presentation in court.

In this case, SPO2 Sanchez testified on the seizure and the handling of the seized shabu. The records show that his testimony and the identification he made in court constitute the totality of the prosecution's evidence on how the police handled and preserved the integrity of the seized shabu. Significantly, SPO2 Sanchez merely stated in his testimony that:

Q: What else transpired when Zaida gave something to you and you, being the poseur buyer, gave the money to Zaida?

A: We brought them to our office.

x x x x

Q: What did you do with those plastic sachets containing white crystalline substance?

A: We brought them to the SPD Crime Lab for examination.[21]

Thus, he failed to provide specific details on how the seized shabu was marked although the evidence shows that the shabu was marked as "ES-1-161009" before it was sent to a forensic laboratory. His testimony also failed to state whether the marking of the shabu was done immediately after its seizure (as Section 21 of RA 9165 requires) or during the investigation. His testimony likewise failed to disclose if a physical inventory and photography of the seized items had taken place, or if they had, whether these were undertaken in the presence of the accused or his counsel, or a representative from the media and the Department of Justice, and of an elective official.

In sum, his testimony failed to show how the integrity and evidentiary value of the item seized had been preserved; no explanation was ever given by SPO2 Sanchez to justify the non-compliance by the buy-bust team with the prescribed procedures. In fact, the records clearly reveal that the prosecution did not even acknowledge the procedural lapses committed by the buy-bust team in the handling of the seized shabu.

The consequences of the above omissions must necessarily be grave for the prosecution under the rule that penal laws, such as RA 9165, are strictly construed against the government and liberally in favor of the accused.[22] One consequence is to produce doubts on the origins of the illegal drug presented in court,[23] thus leading to the

prosecution's failure to establish the corpus delicti.[24] Unless excused by the saving mechanism, the acquittal of the accused must follow.

The non-compliance with the chain of custody rule

Separately from Section 21 violations, we also find the prosecution fatally remiss in establishing an unbroken link in the chain of custody of the seized shabu; its evidence is simply incomplete in establishing the necessary links in the handling of the seized prohibited drug from the time of its seizure until its presentation in court.

In *Mallillin v. People*,^[25] we explained the chain of custody rule and what constitutes sufficient compliance with this rule:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witnesses' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same. [emphasis supplied][26]

We applied this ruling in *People v. Garcia*,^[27] *People v. Gum-Oyen*,^[28] *People v. Denoman*^[29] and *People v. Coreche*^[30] where we recognized the following links that must be established in the chain of custody in a buy-bust situation: 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 illegal drug seized from the forensic chemist to the court.

(a) The first link in the chain of custody

We observe that SPO2 Sanchez' testimony lacks specifics on how the seized shabu was handled immediately after the accused-appellant's arrest. Although the records show that SPO2 Sanchez testified that he actually seized the shabu when he arrested the accused-appellant, he never disclosed the identity of the person/s who had custody and possession of the shabu after its seizure, nor that he retained possession of the shabu from the place of the arrest until they reached the police station.

SPO2 Sanchez also failed to state the time and place as well as the identity of the person/s who made the markings on the two (2) plastic sachets containing the recovered shabu seized from the accused-appellant and Leo on October 16, 2002.

(b) The second link in the chain of custody

We also observe that SPO2 Sanchez' testimony regarding the post-arrest police investigation failed to provide particulars on whether the shabu was turned over to the investigator. The records only identify the name of the investigator as one SPO1 Nuestro before whom SPO2 Sanchez and PO3 Maulit executed a Joint Affidavit of Arrest dated October 17, 2002.^[31] Thus, a big gap exists on who had custody and possession of the shabu prior to, during and immediately after the police investigation, and how the shabu was stored, preserved, labeled and recorded from the time of its seizure up to its receipt by the forensic laboratory.

(c) The third link in the chain of custody

The third link in the chain is represented by two (2) pieces of documentary evidence adduced by the prosecution consisting of the letter-request dated October 17, 2002[32] of Police Superintendent Mariano F. Fegarido as Chief of the Southern Police District Drug Enforcement Group and the Physical Science Report No. D-1502-02 prepared by Engr. Richard Allan B. Mangalip as the forensic chemist.[33]

These documents reveal that the recovered plastic sachets of shabu bearing the markings "ES-1-161002" and "ES-2-161002" were sent to the forensic laboratory sealed in one (1) small brown envelope bearing unidentified signatures. On the same day, the PNP Crime Laboratory received this letter-request along with the submitted specimens. The specimens were then subjected to qualitative examination which yielded positive for methylamphetamine hydrochloride.

These pieces of evidence notably fail to identify the person who personally brought the seized shabu to the PNP Crime Laboratory. They also fail to clearly identify the person who received the shabu at the forensic laboratory pursuant to the letter-request dated October 17, 2002, and who exercised custody and possession of the shabu after it was examined and before it was presented in court. Neither was there any evidence adduced showing how the seized shabu was handled, stored and safeguarded pending its presentation in court.

(d) The fourth link in the chain of custody

The fourth link presents a very strange and unusual twist in the prosecution's evidence in this case. Although the forensic chemist was presented in court, we find that his offered testimony related to a shabu specimen other than that seized in the buy-bust operation of October 16, 2002. Specifically, his testimony pertained to shabu seized by the police on October 12, 2002. This is borne by the following exchanges:

FISCAL UY: The testimony of the witness is being offered to prove . . . that he is the one who cause [sic] the examination of the physical evidence subject of this case containing with white crystalline substance placed inside the plastic sachet weighing 0.20 grams and 0.30 grams with markings of EBC and EBC-1 that I reduced findings after the examination conducted.

x x x x

Q

And with the cause of the performance of your duties, were you able to receive a letter request relevant to this case specifically a drug test performance request, dated October 12, 2002 from PS/Insp. Wilfredo Calderon. Do you have the letter request with you?

A

Yes, sir.

Q

The witness presented to this representation the letter request dated October 12, 2002 for purposes of identification, respectfully request that it be marked in evidence as Exhibit A. In this Exhibit A Mr. Officer, were you able to receive the evidence submitted specifically a small brown stapled wire envelope with signature containing with white crystalline substance inside and with markings EBC- 12/10/02 and EBC-1 12/10/02. After you received this specimen what action did you take or do?

A

Upon receiving, I read and understand the content of the letter request after which, I stamped and marked the

letter request and then record it on the logbook and after recording it on the logbook, I performed the test for determination of the presence of dangerous drug on the specimen.

x x x x

Q

Now, after those tests conducted what was the result of the examination?

A

It gives positive result for Methamphetamine Hydrochloride or otherwise known as shabu, a dangerous drug.

x x x x

Q

At this juncture your Honor, the witness handed with this representation a brown envelope with markings D-1487-02, and the signature and the date 12 October 02, now Mr. Witness tell us who placed these markings on this brown envelope?

A

I am the one who personally made the markings, sir.

Q

And in the face of this brown envelope there is a printed name PO1 Edwin Plopinio and the signature and the date 12 October 2002. Do you know who placed who placed those markings?

A

I have no idea.

Q

At this juncture your Honor, this representation proceeded to open the brown envelope. May I respectfully request that this brown envelope be marked in evidence as Exhibit B. And inside this brown envelope are three pieces of plastic sachets inside which are white crystalline substance with markings EPC 12 October 02 and EPC-1 12 October 02. May I respectfully request that these plastic sachets with white substance inside be marked in evidence as Exhibit B-1 and B-2. And in these plastic sachets with white crystalline inside is a masking tape with the signature and letters are RAM, do you know who placed those letters?

A

I am the one who placed that markings sir.

Q

And what RAM stands for?

A

That stands for my name Richard Allan Mangalip sir.

Q

You mentioned that you reduced your findings in writing, do you have the official finding with you?

A

Yes, sir.

Q

At this juncture the witness handed to this representation the physical science report no. D-1487-2 for purposes of identification respectfully request that this specimen be marked in evidence as Exhibit C. And in this Exhibit C, there is a signature above the typewritten name Engineer Richard Allan B. Mangalip, do you whose signature is this Mr. Witness? [34] [Emphasis supplied]

A

That is my signature sir.

Q

Respectfully request that the signature appearing in Exhibit C be marked in evidence as Exhibit C-1. You stated earlier that you cause the weight of the white crystalline substance in this plastic sachet, what the weights of this white crystalline substance?

A

For the specimen A, it is .20 grams and the specimen B, it is .30 gram.

Q

May I respectfully request that this weight indicated in this physical science report now mark in evidence as Exhibit C-2. I have no further questions to the witness your Honor.

x x x x

Aside from the different dates of seizure, we note that the shabu identified and presented in court as evidence through the testimony of the forensic chemist, showed characteristics distinct from the shabu from the buy-bust sale of October 16, 2002:

First, there were different markings made on the plastic sachets of the shabu recovered on October 12, 2002. As testified to, one plastic sachet of shabu was marked, "EBC 12 October 02," while the other plastic sachet of shabu was marked, "EBC-1 12 October 02";[35]

Second, there was a different sealed brown envelope used where a printed name and signature of one "PO1 Edwin Plopino" and the date "12 October 2002" were written; [36]

Third, the examination of the shabu by the PNP Crime Laboratory was made pursuant to a different letter-request for examination dated October 12, 2002 written by one P/Insp. Wilfredo Calderon;[37] and

Fourth, the results of the shabu testified to by the forensic chemist in court was contained in a different forensic laboratory report known as Physical Science Report No. D-1487-2.[38]

We highlight these characteristics because they are different from the documentary evidence the prosecution formally offered[39] consisting of the letter-request dated October 17, 2002[40] and the Physical Science Report No. D-1502-02.[41] The testimonies of SPO2 Sanchez and PO3 Maulit as well as the submitted documentary evidence referred to the plastic sachets of shabu through their markings of "ES-1-161002" and "ES-2-161002." [42]

From all these, we find it obvious that some mistake must have been made in the presentation of the prosecution's evidence. The prosecution, however, left the discrepancies fully unexplained. To reiterate, the forensic chemist

testified to a specimen dated October 12, 2002, or one secured way before the buy-bust of October 16, 2002, but marked as evidence documents relating to the specimen of October 16, 2002. Strangely, even the defense disregarded the discrepancies. In his comment on the offer of evidence, the defense simply stated, among others, by way of stipulation, that "the forensic chemical officer only conducted a qualitative examination of the specimen he examined and not the quantitative examination."^[43] Coming immediately after the offer of evidence that mentioned the plastic sachets containing white crystalline substances with markings "ES-1 16/10/02" and "ES-2 16/10/02," and the Physical Science Report No. D-1502-02,^[44] the defense was clearly sleeping on its feet when it reacted to the prosecution's offer of evidence.

But the defense was not alone in glossing over the discrepancies between the testimony for the prosecution and the offered evidence, as both the RTC and CA also failed to notice the glaring flaws in the prosecution's evidence. Apparently, because the parties did not point out these discrepancies while the appellate court did not closely review the records of the proceedings, the discrepancies were not taken into account in the decision now under review.

These observations bring us full circle to our opening statement under the Court's ruling on the kind and extent of review that an appellate court undertakes in a criminal case; the appeal opens the whole case for review, with the appellate court charged with the duty to cite and appreciate the errors it may find in the appealed judgment, whether these errors are assigned or unassigned. This is one such instance where we are duty bound to rectify errors that, although unnoticed below and unassigned by the parties, are clearly reflected in the records of the case.

The Conclusion

Given the flagrant procedural lapses the police committed in handling the seized shabu and the obvious evidentiary gaps in the chain of its custody, a presumption of regularity in the performance of duties cannot be made in this case. A presumption of regularity in the performance of official duty is made in the context of an existing rule of law or statute authorizing the performance of an act or duty or prescribing a procedure in the performance thereof. The presumption applies when nothing in the record suggests that the law enforcers deviated from the standard conduct of official duty required by law; where the official act is irregular on its face, the presumption cannot arise.^[45] In light of the flagrant lapses we noted, the lower courts were obviously wrong when they relied on the presumption of regularity in the performance of official duty.

We rule, too, that the discrepancy in the prosecution evidence on the identity of the seized and examined shabu and that formally offered in court cannot but lead to serious doubts regarding the origins of the shabu presented in court. This discrepancy and the gap in the chain of custody immediately affect proof of the corpus delicti without which the accused must be acquitted.

From the constitutional law point of view, the prosecution's failure to establish with moral certainty all the elements of the crime and to identify the accused as the perpetrator signify that it failed to overturn the constitutional presumption of innocence that every accused enjoys in a criminal prosecution. When this happens, as in this case, the courts need not even consider the case for the defense in deciding the case; a ruling for acquittal must forthwith issue.

WHEREFORE, premises considered, we hereby REVERSE and SET ASIDE the March 28, 2006 decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00505 affirming the decision of conviction dated October 27, 2004 of the Regional Trial Court, Branch 259, Parañaque City in Criminal Case Nos. 02-1236-7 for illegal sale of shabu under Section 5, Article II of Republic Act No. 9165. Accused-appellant ZAIDA KAMAD y AMBING is hereby declared ACQUITTED and ordered immediately RELEASED from detention, unless she is confined for any other

lawful cause.

The Director of the Bureau of Corrections is DIRECTED to IMPLEMENT this Decision and to report to this Court the action taken hereon within five (5) days from receipt.

SO ORDERED.

Carpio, (Chairperson), Corona,[*] Abad, and Perez, JJ., concur.

[*] Designated additional Member of the Second Division vice Justice del Castillo who recused himself from the case due to his prior action in the Court of Appeals, per Division Raffle dated December 14, 2009.

[1] Dated March 28, 2006; rollo, pp. 2-11.

[2] Penned by Associate Justice Magdangal M. de Leon, and concurred in by Presiding Justice Conrado Vasquez, Jr. and Associate Justice Mariano C. del Castillo (now a Member of this Court).

[3] Dated October 27, 2004; CA rollo, pp. 13-19.

[4] Penned by Judge Zosimo V. Escano.

[5] Also referred to as "Zenaida" in the records.

[6] Records, p. 1.

[7] Also referred to as "Pasillao" in the records.

[8] TSN, March 27, 2003, pp. 3-17.

[9] Also referred to as "PO1 Mengote" in the records.

[10] TSN, February 4, 2003, pp. 3-25.

[11] Records, p. 5.

[12] TSN, February 19, 2004, pp. 4-37.

[13] CA rollo, p. 19.

[14] Memorandum Circular 93-009 issued on June 29, 1993.

[15] People v. Balagat, G.R. No. 177163, April 24, 2009.

[16] People v. Robles, G.R. No. 177220, April 24, 2009.

[17] Id.

[18] Mallillin v. People, G.R. No. 172953, April 30, 2008, 553 SCRA 619, 633.

[19] G.R. No. 173480, February 25, 2009.

[20] People v. Robles; supra note 16.

[21] TSN, February 4, 2003, pp. 14-15.

[22] People v. De la Cruz, G.R. No. 177222, October 29, 2008, 570 SCRA 273, 285.

[23] People v. Garcia; supra note 19; People v. De la Cruz; supra note 22, at 286; People v. Dela Cruz, G.R. No.

181545, October 8, 2008, 568 SCRA 273, 284; *People v. Santos, Jr.*, G.R. No. 175593, October 17, 2007, 536 SCRA 489, 504; *People v. Nazareno*, G.R. No. 174771, September 11, 2007, 532 SCRA 630, 641; and *People v. Orteza*, G.R. No. 173051, July 31, 2007, 528 SCRA 750, 758-759.

[24] *People v. Orteza, et al*; supra note 23, at 758-759.

[25] Supra note 18, at 632-633.

[26] Id.

[27] Supra note 19.

[28] G.R. No. 182231, April 16, 2009.

[29] G.R. No. 171732, August 14, 2009.

[30] G.R. No. 182528, August 14, 2009.

[31] Records, pp. 3-4.

[32] Id. at 6.

[33] Id. at 5.

[34] TSN, December 16, 2002, pp. 3-8.

[35] Id. at 7.

[36] Id. at 6-7.

[37] Id. at 4.

[38] Id. at 8; Records, p. 5.

[39] TSN, December 16, 2002, p. 13, but the TSN apparently made a mistake in identifying the offeror as Atty. Balayan, counsel for Leo Ramirez, instead of the prosecution whose turn it was to make the offer after the defense finished with their cross-examination of Witness Mangalip.

[40] Supra note 30.

[41] Supra note 31.

[42] TSN, February 4, 2003, p. 19; TSN, March 27, 2003, p. 48; supra note 30 and note 31.

[43] TSN, December 16, 2002, p. 14.

[44] Id. at 13.

[45] *People v. Obmiranis*, G.R. No. 181492, December 16, 2008, 574 SCRA 140, 156.

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