

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CESAR BAUTISTA Y SANTOS, ACCUSED-APPELLANT.

G.R. No. 177320. February 22, 2012

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

Under review is the conviction of the accused for illegal sale and illegal possession of shabu respectively punished under Section 5 and Section 11 (3) of Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002). He had been tried for and found guilty of the offenses by the Regional Trial Court (RTC), Branch 127, Caloocan City, and the Court of Appeals (CA) had affirmed the convictions through the decision promulgated on February 15, 2007.[1]

Antecedents

On April 28, 2003, the Office of the City Prosecutor of Caloocan City filed in the RTC two separate informations charging Cesar Bautista y Santos with a violation of Section 5 and a violation of Section 11 (3) of RA 9165, alleging thus:

Criminal Case No. C-67993

That on or about the 25th day of April 2003 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control six (6) pieces of plastic sachets containing METHYLAMPHETAMINE HYDROCHLORIDE (Shabu) weighing 0.05 gram, 0.09 gram, 0.05 gram, 0.09 gram, 0.07 gram & 0.06 gram knowing the same to be dangerous drug under the provisions of the above-cited law.

CONTRARY TO LAW.[2]

Criminal Case No. C-67994

That on or about the 25th day of April 2003 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to PO2 AMADEO TAYAG who posed, as buyer METHAMPHETAMINE HYDROCHLORIDE (SHABU) weighing 0.05 gram, a dangerous drug, without the corresponding license or prescription therefore, knowing the same to be such.

CONTRARY TO LAW.[3]

Evidence of the Prosecution

In the afternoon of April 25, 2003, an informant went to the Station Drug Enforcement Unit of the Caloocan Police Station to report the peddling of illegal drugs by Bautista on Kasama Street, Barangay 28, Caloocan City. Forthwith, Police Insp. Cesar Cruz formed a team consisting of SPO1 Rommel Ybanez, PO3 Rizalino Rangel,

PO2 Jessie Caragdag, PO2 Juanito Rivera, and PO2 Amadeo L. Tayag to conduct a buy-bust operation against Bautista. PO2 Tayag, designated as the poseur-buyer, was given a P100.00 bill as buy-bust money, on which he placed his initials ALT. The rest of the buy-bust team would serve as back up for PO2 Tayag. The team proceeded to the target area with the informant.[4]

Upon arriving at the target area, the informant pointed out Bautista to the team. Bautista was then standing in front of a house. PO2 Tayag and the informant then approached Bautista even as the rest of the team took up positions nearby. The informant introduced PO2 Tayag to Bautista as biyahero ng shabu, after which the informant left PO2 Tayag and Bautista alone to themselves. PO2 Tayag told Bautista: Cesar, pakuha ng piso. Bautista drew a plastic sachet from his pocket and handed it to PO2 Tayag, who in turn handed the P100.00 bill buy-bust money to Bautista. PO2 Tayag then turned his cap backwards as the pre-arranged signal to the back-up members. The latter rushed forward and arrested Bautista. Upon informing Bautista of his constitutional rights, SPO1 Ybañez frisked him and found in his pocket six other plastic sachets, while PO2 Caragdag seized the buy-bust money from Bautista's hand. The team brought Bautista and the seized plastic sachets back to the police station.[5]

In the police station, the team recorded the buy-bust bill in the police blotter and turned over the plastic sachets to PO2 Hector Castillo, the investigator on duty.[6] PO2 Castillo marked the sachet handed by Bautista to PO2 Tayag as "CBS (Bautista's initials) Buy-bust," and the other six sachets recovered by SPO1 Ybañez from appellant's possession as "CBS-1," "CBS-2," "CBS-3," "CBS-4," "CBS-5," and "CBS-6." [7]

Based on the written request of Insp. Cruz, Forensic Chemist Albert S. Arturo conducted a laboratory examination on the contents of the marked sachets,[8] and stated in his Physical Science Report that the marked sachets contained methamphetamine hydrochloride or shabu, a dangerous substance. The Physical Science Report enumerated the marked sachets examined and gave the weight of the shabu in each as follows: "CBS (Bautista's initials) Buy-bust" – 0.05 gram; "CBS-1" – 0.05 gram; "CBS-2" – 0.09 gram; "CBS-3" – 0.05 gram; "CBS-4" – 0.09 gram; "CBS-5" – 0.07 gram; and "CBS-6" – 0.06 gram.[9]

Evidence of the Accused

Bautista denied the charge. He claimed that on April 25, 2003, at around 6:00 p.m., he and his wife, Rosario, were in their house cutting cloth to be made into door mats when PO2 Tayag and two others barged in; that when he asked what they wanted, they told him that it was none of his business; that the three introduced themselves as policemen and ordered him to go with them; that they forced him to go with them, with PO2 Tayag hitting him on the nape; that as they were walking on the road, they demanded money from him, but he told them that he had none; and that he was brought to and detained at the Caloocan City Jail.[10]

Decision of the RTC

After trial, the RTC found Bautista guilty as charged through its joint decision dated September 5, 2005,[11] disposing:

WHEREFORE, premises considered and the prosecution having established to a moral certainty the guilt of Accused CESAR BAUTISTA y SANTOS @ CESAR TAGILID, this Court hereby renders judgment as follows:

1. In Criminal Case No. C-67993 for Violation of Sec. 11, Art. II of RA 9165, this Court in the absence of any aggravating circumstance hereby sentences same Accused to a prison term of twelve (12) years, eight (8) months and one day to seventeen (17) years and eight (8) months and to pay the fine of Three hundred thousand pesos (P300,000.00) with subsidiary imprisonment in case of insolvency; and

2. In Crim. Case No. C-67994 for Violation of Section 5, Art. II of R.A. 9165, this Court in the absence of any aggravating circumstance hereby sentences said Accused to LIFE IMPRISONMENT, and to pay the fine of Five hundred thousand pesos (P500,000.00) with subsidiary imprisonment in case of insolvency.

Subject drug in both cases are declared confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.

Decision of the CA

On February 15, 2007, the CA affirmed the RTC judgment, pertinently holding:[12]

In sum, the prosecution was able to establish the guilt of herein appellant beyond reasonable doubt. The actual sale of prohibited or regulated drugs coupled with their presentation in court has been sufficiently proven by the testimonies of the prosecution witnesses. Their recount of the incident complement each other, giving a complete picture on how the illegal sale of shabu transpired and how the sale led to the apprehension of appellant in flagrante delicto. Their testimonies likewise established beyond doubt that appellant was found in actual possession of six (6) additional pieces of heat-sealed sachets containing white crystalline substance (shabu) when he was arrested.

Appellant's claim, therefore, that in convicting him, the trial court merely relied on the presumption that official duty has been regularly performed is without merit. Appellant's conviction was based on established facts and evidence on record.

WHEREFORE, in view of the foregoing, the Joint Decision of the Regional Trial Court of Caloocan City, Branch 127 in Criminal Cases Nos. C-67993 and C-67994 is AFFIRMED in toto.

SO ORDERED.

Issues

Hence, this appeal, in which Bautista contends that the CA erred in affirming his conviction because: (a) there were inconsistencies in the testimonies of Prosecution witnesses as to who of them had actually received the tip from the informant; (b) PO2 Tayag's testimony that Bautista had handed him a sachet of shabu without inquiring about the former's identity ran counter to human experience; (c) the back-up members of the buy-bust team did not actually witness the transaction between PO2 Tayag and Bautista; and (d) the plastic sachets were not immediately marked after their seizure from Bautista.[13]

Ruling

The appeal lacks merit.

I

Illegal sale and illegal possession of shabu were established beyond reasonable doubt

Section 5 and Section 11 of Republic Act No. 9165 pertinently provide as follows:

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 such transactions.

x x x

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:

x x x

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

x x x

(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.

To secure a conviction for illegal sale of shabu, the following essential elements must be established: (a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing. What is material in prosecutions for illegal sale of shabu is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence.[14]

The requisites for illegal sale of shabu were competently and convincingly proven by the Prosecution. PO2 Tayag, as the poseur-buyer, attested that Bautista sold shabu to him during a legitimate buy-bust operation.[15] According to Forensic Chemist Arturo, the substance subject of the transaction, which weighed 0.05 gram, was examined and found to be methamphetamine hydrochloride or shabu, a dangerous drug.[16] PO2 Caragdag declared that he recovered the buy-bust money from Bautista’s hand right after the sale.[17] Further, the Prosecution later presented as evidence both the sachet of shabu subject of the sale and the buy-bust money used in the buy-bust operation.[18] Thereby, the Prosecution directly incriminated Bautista.

For illegal possession of a dangerous drug, like shabu, the elements are: (a) the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the drug.[19]

The elements of illegal possession of a dangerous drug were similarly competently and convincingly established by the Prosecution. SPO1 Ybañez stated that upon seeing the pre-arranged signal given by PO2 Tayag, he and the other members of the team proceeded to arrest Bautista; and that he frisked Bautista and then recovered six other plastic sachets from Bautista’s pocket.[20] Undoubtedly, the frisking was legally authorized as a search incidental to the lawful arrest of Bautista for evidence in the commission of illegal drug pushing.[21] Forensic Chemist Arturo certified that each of the sachets contained different shabu of different weights.[22]

The lower courts justifiably accorded credence to the eyewitness testimonies of PO2 Tayag, PO2 Caragdag, and SPO1 Ybañez. Their testimonial accounts were consistent with the documentary and object evidence of the Prosecution. It was significant that no ill motive was imputed to them to falsely testify against Bautista, with Bautista himself admitting not being aware of any reason why they would wrongly incriminate him.[23]

In drug-related prosecutions, the State bears the burden not only of proving the elements of the offenses of sale and possession of shabu under Republic Act No. 9165, but also of proving the corpus delicti, the body of the crime. "Corpus delicti has been defined as the body or substance of the crime and, in its primary sense, refers to the fact that a crime has been actually committed. As applied to a particular offense, it means the actual commission by someone of the particular crime charged. The corpus delicti is a compound fact made up of two (2) things, viz: the existence of a certain act or result forming the basis of the criminal charge, and the existence of a criminal agency as the cause of this act or result." [24] The dangerous drug is itself the very corpus delicti of the violation of the law prohibiting the possession of the dangerous drug. [25] Consequently, the State does not comply with the indispensable requirement of proving corpus delicti when the drug is missing, and when substantial gaps occur in the chain of custody of the seized drugs as to raise doubts on the authenticity of the evidence presented in court. [26]

To ensure that the chain of custody is established, 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.

xxx

(1) The apprehending team having initial custody and control of 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;

xxx

The complementary Implementing Rules and Regulations (IRR) of Republic Act No. 9165 instructs the apprehending officer or team on the custody and control of the confiscated drugs in the following manner:

xxx

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items;

xxx

The rule on chain of custody under the foregoing enactments expressly demands the identification of the persons who handle the confiscated items for the purpose of duly monitoring the authorized movements of the illegal drugs and/or drug paraphernalia from the time they are seized from the accused until the time they are presented in court. In this regard, Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002 defines the chain of custody rule as follows:

b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or

controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody [was] of the seized item, the date and time when such transfer of custody made in the course of safekeeping and use in court as evidence, and the final disposition[.]

Here, the buy-bust team did not mark the sachets until after reaching the police station. Even so, the omission did not destroy the integrity and the evidentiary value of the confiscated items. We are satisfied that PO2 Tayag and SPO1 Ybañez brought the confiscated sachets of shabu to the police station immediately after the buy-bust operation, and turned them over to the duty investigator, PO2 Castillo, for marking;[27] that in their presence, PO2 Castillo marked the sachet of shabu sold by Bautista to PO2 Tayag as “CBS (Bautista’s initials) Buy-bust,” and the six sachets of shabu recovered by SPO1 Ybañez from Bautista’s possession as “CBS-1,” “CBS-2,” “CBS-3,” “CBS-4,” “CBS-5,” and “CBS-6”;^[28] that PO2 Castillo then delivered the marked sachets to Insp. Cruz who in turn caused their transmittal to the Crime Laboratory Office, Northern Police District (NPD), in Caloocan City, for appropriate laboratory examination;^[29] that upon the instruction of Insp. Cruz, SPO1 Ybañez handcarried the written request and the marked sachets to the NPD Crime Laboratory Office for laboratory examination, where one PO2 Bonifacio received them;^[30] and that thereafter, Forensic Chemist Arturo certified in the Physical Science Report prepared following his qualitative examination that the contents of the marked sachets were positive for methamphetamine hydrochloride or shabu, and enumerated the marked sachets examined and rendered the weights of the shabu they contained, as follows: “CBS (Bautista’s initials) Buy-bust” – 0.05 gram; “CBS-1” - 0.05 gram; “CBS-2” - 0.09 gram; “CBS-3” – 0.05 gram; “CBS-4” – 0.09 gram; “CBS-5” – 0.07 gram; and “CBS-6” – 0.06 gram.^[31]

We have held that a non-compliance with the regulations is not necessarily fatal as to render an accused’s arrest illegal or the items confiscated from him inadmissible as evidence of his guilt, for what is of the utmost importance is the preservation of the integrity and the evidentiary value of the confiscated items that will be utilized in the determination of his guilt or innocence.^[32]

That was done herein. PO2 Tayag firmly identified the sachet of shabu marked as “CBS(Bautista’s initials) Buy bust” as the one he had bought from Bautista in the buy-bust operation.^[33] In the same manner, SPO1 Ybañez identified the sachets of shabu marked “CBS-1,” “CBS-2,” “CBS-3,” “CBS-4,” “CBS-5,” and “CBS-6” presented in court as those he had recovered from Bautista’s possession right after the buy-bust operation.^[34] Finally, Forensic Chemist Arturo properly stated that the same exhibits were the very specimens he had subjected to chemical analysis upon the formal request of Insp. Cruz.^[35] Without question, then, the quantities of shabu recovered from Bautista were duly preserved within the context of the rule on chain of custody.

As if confirming the arresting officers’ observance of the rule on chain of custody, Bautista did not assail the integrity of the confiscated shabu except by insisting on being framed up by the policemen. His insistence did not deflect guilt from him, however, considering that his failure to charge the policemen with frame-up and extortion could only be regarded as his tacit admission that such evidence had not been tampered or meddled with but preserved and intact.^[36]

II

Denial and frame-up not established

Bautista’s denial and defense of frame-up were given no consideration due to their being self-serving and uncorroborated. We declare such treatment warranted. He did not present Rosario, his wife, to corroborate his claim of being framed up although she was supposed to have been around at the time of his arrest. He did not also

adduce evidence to substantiate his story of being falsely incriminated in a frame-up by competent evidence. His claim thereon did not prevail over the positive identification of him by PO2 Tayag as the drug pusher he had transacted with. As the Court sees it, he was not even sincere in claiming frame-up, for he did not formally charge the policemen for the supposed frame-up and extortion committed against him. Verily, defenses of frame-up and extortion are not looked upon with favor due to their being conveniently concocted and usually asserted by culprits arrested for violations of Republic Act No. 9165.[37]

III

Inconsistencies in testimony
are inconsequential

Bautista argues that the arresting policemen incurred inconsistencies because they could not be sure on who of them had actually received the report of the informant on the illegal drug pushing of Bautista.

The argument has no merit. There is no dispute that the matter of who among the policemen actually received the report from the informant did not relate to the essential elements of the crimes charged. Nor did such matter refer to the actual buy-bust itself – that crucial moment when Bautista was caught red-handed selling and possessing shabu in question. As such, it was insignificant in this adjudication. We deem to be basic enough that an inconsistency that had nothing to do with the elements of the crime could not be a basis for acquittal.[38]

Bautista's insistence that it was impossible for him to sell shabu to PO2 Tayag due to the latter being unknown to him merits no attention. Based on our collective experience as judges, we know that drug pushing has been committed with so much casualness even between total strangers. It was credible enough, then, that PO2 Tayag categorically declared that the informant had first introduced him to Bautista as biyahero ng shabu before PO2 Tayag and Bautista started transacting with each other.[39]

Bautista posits that the back-up members did not visually see the sale between him and PO2 Tayag. That position is unfounded for three reasons. The first is that PO2 Tayag testified that Bautista had sold shabu to him during the buy-bust operation. The second is that the back-up members themselves did actually witness the transaction between Bautista and PO2 Tayag, with PO2 Caragdag specifically saying that he had seen their transaction from seven meters away from them;[40] and with SPO1 Ybañez, despite admitting not actually seeing the exchange between Bautista and PO2 Tayag, still seeing PO2 Tayag giving the pre-arranged signal to communicate the consummation of the sale of shabu.[41] And, thirdly, the giving of the pre-arranged signal rendered a full ocular view of the exchange between Bautista and PO2 Tayag superfluous. Worthy of noting is that the giving of the pre-arranged signal in a buy-bust operation has been an accepted form of communicating the consummation of the exchange between the drug pusher and the poseur buyer.

IV

Penalties

Section 11 (3) of Republic Act No. 9165 provides that the illegal possession of less than five grams of shabu is penalized with imprisonment of 12 years and one day to 20 years, and a fine ranging from P300,000.00 to P400,000.00. Bautista was guilty of illegal possession of shabu weighing 0.41 gram. The RTC and the CA imposed on him an indeterminate sentence of 12 years, eight months and one day, as minimum, to 17 years and eight months, as maximum, and a fine of P300,000.00.

Although the penalty thus imposed is within the range of the penalty imposable under Republic Act No. 9165, the increment of one day as part of the minimum of the indeterminate sentence is deleted despite its being within the parameters of the Indeterminate Sentence Law. The one-day increment to the minimum of the indeterminate sentence was surplusage that may occasion a slight degree of inconvenience when it will be time for the penal

administrators concerned to pass upon and determine whether or not Bautista is already qualified to enjoy the benefits under the Indeterminate Sentence Law and other relevant legal provisions.[42] Accordingly, the penalty should be an indeterminate sentence of 12 years and eight months, as minimum, to 17 years and eight months, as maximum, and a fine of P300,000.00.

Under Section 5 of Republic Act No. 9165, the unauthorized sale of shabu, regardless of its quantity and purity, carries with it the penalty of life imprisonment to death and a fine ranging from P500,000.00 to P10,000,000.00. The RTC and the CA were correct in prescribing life imprisonment and fine of P500,000.00 due to the absence of any aggravating circumstance. It is relevant to observe that the higher penalty of death might no longer be possibly prescribed in view of the intervening enactment of Republic Act No. 9346,[43] a law that prohibits the imposition of the death penalty.

WHEREFORE, we AFFIRM the decision promulgated on February 15, 2007 by the Court of Appeals, subject to the SOLE MODIFICATION that the indeterminate sentence prescribed on the illegal possession of shabu as defined and punished under Section 11 (3) of Republic Act No. 9165 is 12 years and eight months, as minimum, to 17 years and eight months, as maximum, and a fine of P300,000.00.

The accused shall pay the costs of suit.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Villarama, Jr., and Perlas-Bernabe,[*] JJ., concur.

[*] Vice Associate Justice Mariano C. Del Castillo, who penned the decision of the Court of Appeals, per raffle of January 13, 2012.

[1] CA rollo, pp. 114-130; penned by Associate Justice Mariano C. Del Castillo (now a Member of this Court), with Associate Justice Ruben T. Reyes (later Presiding Justice and a Member of the Court, but already retired) and Associate Justice Arcangelita Romilla Lontok (retired) concurring.

[2] Records, p. 2.

[3] Id., p. 8.

[4] TSN, August 27, 2003, pp. 3-5.

[5] Id., pp. 6-10.

[6] Id., pp. 10-11.

[7] TSN, September 10, 2003, pp. 2-6.

[8] Records, pp. 5-6.

[9] Id.

[10] TSN, May 31, 2005, pp. 2-9.

[11] Records, pp. 148-164.

[12] Supra, note 1.

[13] CA rollo, pp. 59-64.

[14] *People v. Naquita*, G.R. No. 180511, July 28, 2008, 560 SCRA 430, 449; *People v. Del Monte*, G.R. No. 179940, April 23, 2008, 552 SCRA 627, 637-638; *People v. Santiago*, G.R. No. 175326, November 28, 2007, 539 SCRA 198, 212.

[15] TSN, August 27, 2003, p. 7.

[16] *Supra*, note 8.

[17] TSN, August 11, 2003, p. 6.

[18] Records, p. 94.

[19] *People v. Naquita*, *supra* note 14, p. 451.

[20] TSN, September 15, 2003, p. 6.

[21] Rule 126, Rules of Court, provides:

Section 13. Search incident to lawful arrest. – A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant. (12a)

[22] *Supra*, note 8.

[23] TSN, May 31, 2005, p. 9.

[24] *People v. Roluna*, G.R. No. 101797, March 24, 1994, 231 SCRA 446, 452; citing 23 C.J.S. 623-624 (italicized portions are found in the original text).

[25] *People v. Kimura*, G.R. No. 130805, April 27, 2004, 428 SCRA 51, 61.

[26] *People v. Coreche*, G.R. No. 182528, August 14, 2009, 596 SCRA 350, 356-357.

[27] TSN, August 27, 2003, pp. 10-11; September 15, 2003, p. 6; September 10, 2003, p. 5.

[28] *Supra*, note 7.

[29] *Supra*, note 8.

[30] *Id.*

[31] *Id.*

[32] *People v. Agulay*, G.R. No. 181747, September 26, 2008, 566 SCRA 571, 595; *People v. Pringas*, G.R. No. 175928, August 31, 2007, 531 SCRA 828, 842-843; *People v. Del Monte*, *supra*, note 14, p. 636.

[33] TSN, August 27, 2003, pp. 11-12.

[34] TSN, September 15, 2003, p. 6.

[35] TSN, July 29, 2003, pp. 9-10.

[36] *People v. Miranda*, G.R. No. 174773, October 2, 2007, 534 SCRA 552, 568-569.

[37] *People v. Concepcion*, G.R. No. 178876, June 27, 2008, 556 SCRA 421, 443.

[38] *People v. Santiago*, *supra*, note 14, pp. 217-218.

[39] TSN, October 14, 2003, p. 6.

[40] TSN, August 11, 2003, p. 6.

[41] TSN, September 15, 2003, p. 5.

[42] See *Talampas v. People*, G.R. No. 180219, November 23, 2011.

[43] An Act Prohibiting The Imposition of Death Penalty in The Philippines, repealing Republic Act 8177 otherwise known as the Act Designating Death By Lethal Injection, Republic Act 7659 otherwise known as the Death Penalty Law and all other laws, executive orders and decrees (The law was signed on June 24, 2006, and was held to apply retroactively in *People v. Tubongbanua*, August 31, 2006, 500 SCRA 727 and *People v. Cabalquinto*, September 19, 2006, 502 SCRA 419).

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