

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FELIMON PAGADUAN Y TAMAYO, APPELLANT.

G.R. No. 179029. August 09, 2010

Ponente: BRION, J.

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BRION, J.:

We review the decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01597 which affirmed in toto the decision[2] of the Regional Trial Court (RTC), Branch 27, Bayombong, Nueva Vizcaya, in Criminal Case No. 4600, finding appellant Felimon Pagaduan y Tamayo (appellant) guilty beyond reasonable doubt of illegal sale of shabu, under Section 5, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

BACKGROUND FACTS

The prosecution charged the appellant before the RTC with violation of Section 5, Article II of R.A. No. 9165 under an Information that states:

That on or about December 27, 2003 at about 4:30 o'clock (sic) in the afternoon, in the Municipality of Solano, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously sell, trade, dispense, deliver and give away 0.01 gram, more or less, of methamphetamine hydrochloride (shabu), a dangerous drug, as contained in a heat-sealed transparent plastic sachet to PO3 Peter C. Almarez, a member of the Philippine Drug Enforcement Agency (PDEA) who posed as a buyer of shabu in the amount of P200.00, to the damage and prejudice of the Republic of the Philippines.

CONTRARY TO LAW.[3]

The appellant pleaded not guilty on arraignment. Trial on the merits, thereafter, followed.

The evidence for the prosecution reveals the following facts.

After having received information that the appellant was selling illegal drugs in Nueva Vizcaya, Captain Jaime de Vera called, on his cellular phone, PO3 Peter Almarez and SPO1 Domingo Balido - who were both in Santiago City - and informed them of a planned buy-bust operation. They agreed to meet at the SSS Building near LMN Hotel in Bayombong, Nueva Vizcaya.[4] On their arrival there, Captain de Vera conducted a briefing and designated PO3 Almarez as the poseur buyer. Thereafter, Captain de Vera introduced PO3 Almarez to the police informant (tipster),[5] and gave him (PO3 Almarez) two P100 bills (Exhibits "D" and "E") which the latter marked with his initials.[6]

After this briefing, the buy-bust team went to Bintawan Road, Solano, Nueva Vizcaya to conduct the entrapment operation.[7] PO3 Almarez and the informant rode a tricycle, while Captain de Vera and SPO1 Balido followed on board a tinted van.[8] The buy-bust team arrived at the target area at around 4:30 p.m., and saw the appellant already waiting for the informant. The informant approached the appellant and introduced PO3 Almarez to him as

a buyer. PO3 Almarez told the appellant that he needed shabu worth P200, and inquired from him (appellant) if he had a "stock." The appellant replied in the affirmative, and then handed one heat-sealed transparent plastic sachet containing white crystalline substance to PO3 Almarez. PO3 Almarez, in turn, gave the two pre-marked P100 bills to the appellant.[9] Immediately after, PO3 Almarez made the pre-arranged signal to his companions, who then approached the appellant. Captain de Vera took the marked money from the appellant's right pocket, and then arrested him.[10] PO3 Almarez, for his part, marked the sachet with his initials.[11] Thereafter, the buy-bust team brought the appellant to the Diadi Police Station for investigation.[12]

At the police station, Captain de Vera prepared a request for laboratory examination (Exh. "C").[13] The appellant was transferred to the Diadi Municipal Jail where he was detained.[14] Two days later, or on December 29, 2003, PO3 Almarez transmitted the letter-request, for laboratory examination, and the seized plastic sachet to the PNP Crime Laboratory, where they were received by PO2 Fernando Dulnuan.[15] Police Senior Inspector (PSI) Alfredo Quintero, the Forensic Chemist of the PNP Crime Laboratory, conducted an examination on the specimen submitted, and found it to be positive for the presence of shabu (Exh. "B").[16]

On the hearing of August 13, 2004, the prosecution offered the following as exhibits:

Exhibit "A" - the shabu confiscated from the appellant

Exhibit "B" - the report by the PNP Crime Laboratory

Exhibit "C" - the request for laboratory examination

Exhibits "D" and "E" - the buy-bust money

Exhibit "F" - the request for laboratory examination received by Forensic Chemist Quintero

The defense presented a different version of the events, summarized as follows:

At around 4:30 p.m. of December 27, 2003, Jojo Jose came to the appellant's house and informed him that Captain de Vera was inviting him to be an "asset." The appellant and Jojo boarded a tricycle and proceeded to the SSS Building where Captain de Vera was waiting for them.[17] As the tricycle approached the Methodist Church along Bintawan Road, Jojo dropped his slippers and ordered the driver to stop. Immediately after, a van stopped in front of the tricycle; Captain de Vera alighted from the van and handcuffed the appellant. Captain de Vera brought the appellant inside the van, frisked him, and took P200 from his pocket.[18] Afterwards, Captain de Vera took the appellant to the SSS Building, where he (Captain de Vera) and the building manager drank coffee. Captain de Vera then brought the appellant to the Diadi Municipal Jail where he was detained for almost two days.[19]

On the morning of December 29, 2003, the appellant was transferred to the Provincial Jail. He signed a document without the assistance of a lawyer after being told that it would result in his immediate release.[20]

The RTC, in its decision[21] of August 16, 2005, convicted the appellant of the crime charged, and sentenced him to suffer the penalty of life imprisonment. The RTC likewise ordered the appellant to pay a P500,000.00 fine.

The appellant appealed to the CA, docketed as CA-G.R. CR-H.C. No. 01597. The CA, in its decision[22] dated May 22, 2007, affirmed the RTC decision.

The CA found unmeritorious the appellant's defense of instigation, and held that the appellant was apprehended as a result of a legitimate entrapment operation. It explained that in inducement or instigation, an innocent person is lured by a public officer or private detective to commit a crime. In the case at bar, the buy-bust operation was planned only after the police had received information that the appellant was selling shabu.

The CA also held that the failure of the police to conduct a prior surveillance on the appellant was not fatal to the prosecution's case. It reasoned out that the police are given wide discretion to select effective means to apprehend drug dealers. A prior surveillance is, therefore, not necessary, especially when the police are already accompanied by their informant.

The CA further ruled that the prosecution was able to sufficiently prove an unbroken chain of custody of the shabu. It explained that PO3 Almarez sealed the plastic sachet seized from the appellant, marked it with his initials, and transmitted it to the PNP Crime Laboratory for examination. PSI Quintero conducted a qualitative examination and found the specimen positive for the presence of shabu. According to the CA, the prosecution was able to prove that the substance seized was the same specimen submitted to the laboratory and presented in court, notwithstanding that this specimen was turned over to the crime laboratory only after two days.

In his brief,[23] the appellant claims that the lower courts erred in convicting him of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt. He harps on the fact that the police did not conduct a prior surveillance on him before conducting the buy-bust operation.

The appellant further contends that the prosecution failed to show an unbroken chain of custody in the handling of the seized drug. He claims that there was no evidence to show when the markings were done. Moreover, a period of two days had elapsed from the time the shabu was confiscated to the time it was forwarded to the crime laboratory for examination.

The Office of the Solicitor General (OSG) counters with the argument that the chain of custody of the shabu was sufficiently established. It explained that the shabu was turned over by the police officers to the PNP Crime Laboratory, where it was found by the forensic chemist to be positive for the presence of shabu. The OSG likewise claimed that the appellant failed to rebut the presumption of regularity in the performance of official duties by the police. The OSG further added that a prior surveillance is not indispensable to a prosecution for illegal sale of drugs.[24]

THE COURT'S RULING

After due consideration, we resolve to acquit the appellant for the prosecution's failure to prove his guilt beyond reasonable doubt. Specifically, the prosecution failed to show that the police complied with paragraph 1, Section 21, Article II of R.A. No. 9165, and with the chain of custody requirement of this Act.

The Comprehensive Dangerous Drugs Act: A Brief Background

R.A. No. 9165 was enacted in 2002 to pursue the State's policy to "safeguard the integrity of its territory and the well-being of its citizenry particularly the youth, from the harmful effects of dangerous drugs on their physical and mental well-being, and to defend the same against acts or omissions detrimental to their development and preservation."

R.A. No. 9165 repealed and superseded R.A. No. 6425, known as the Dangerous Drugs Act of 1972. Realizing that dangerous drugs are one of the most serious social ills of the society at present, Congress saw the need to further enhance the efficacy of the law against dangerous drugs. The new law thus mandates the government to pursue an intensive and unrelenting campaign against the trafficking and use of dangerous drugs and other similar substances through an integrated system of planning, implementation and enforcement of anti-drug abuse policies, programs and projects.[25]

Illegal Sale of Drugs under Section 5

vis-à-vis the Inventory and Photograph
Requirement under Section 21

In a prosecution for illegal sale of a prohibited drug under Section 5 of R.A. No. 9165, the prosecution must prove the following elements: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. All these require evidence that the sale transaction transpired, coupled with the presentation in court of the corpus delicti, i.e., the body or substance of the crime that establishes that a crime has actually been committed, as shown by presenting the object of the illegal transaction.[26] To remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the appellant; otherwise, the prosecution for possession or for drug pushing under R.A. No. 9165 fails.[27]

The required procedure on the seizure and custody of drugs is embodied in Section 21, paragraph 1, Article II of R.A. No. 9165, which states:

(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[.]

This is implemented by Section 21(a), Article II of the Implementing Rules and Regulations of R.A. No. 9165, which reads:

(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[.]

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.[28] The records of the present case are bereft of evidence showing that the buy-bust team followed the outlined procedure despite its mandatory terms. The deficiency is patent from the following exchanges at the trial:

PROSECUTOR [EMERSON TURINGAN]:

Q:

After you handed this buy-bust money to the accused, what happened next?

[PO3 ALMAREZ:]

A:

When the shabu was already with me and I gave him the money[,] I signaled the two, Captain Jaime de Vera and SPO1 Balido, sir.

x x x x

Q:

After you gave that signal, what happened?

A:

Then they approached us and helped me in arresting Felimon Pagaduan, sir.

Q:

After Pagaduan was arrested, what happened next?

A:

After arresting Pagaduan[,] we brought him directly in Diadi Police Station, sir.

Q:

What happened when you brought the accused to the Police Station in Diadi?

A:

When we were already in Diadi Police Station, we first put him in jail in the Municipal Jail of Diadi, Nueva Vizcaya, sir.

Q:

What did you do with the shabu?

A:

The request for laboratory examination was prepared and was brought to the Crime Lab. of Solano, Nueva Vizcaya, sir.

x x x x

Q:

After making the request, what did you do next[,] if any[,] Mr. Witness?

A:

After submission of the request to the Crime Lab.[,] we prepared our joint affidavit for submission of the case to the Court, sir.[29]

From the foregoing exchanges during trial, it is evident that the apprehending team, upon confiscation of the drug, immediately brought the appellant and the seized items to the police station, and, once there, made the request for laboratory examination. No physical inventory and photograph of the seized items were taken in the presence of the accused or his counsel, a representative from the media and the Department of Justice, and an elective official. PO3 Almarez, on cross-examination, was unsure and could not give a categorical answer when asked whether he issued a receipt for the shabu confiscated from the appellant.[30] At any rate, no such receipt or certificate of inventory appears in the records.

In several cases, we have emphasized the importance of compliance with the prescribed procedure in the custody and disposition of the seized drugs. We have repeatedly declared that the deviation from the standard procedure dismally compromises the integrity of the evidence. In *People v. Morales*,[31] we acquitted the accused for failure

of the buy-bust team to photograph and inventory the seized items, without giving any justifiable ground for the non-observance of the required procedures. *People v. Garcia*[32] likewise resulted in an acquittal because no physical inventory was ever made, and no photograph of the seized items was taken under the circumstances required by R.A. No. 9165 and its implementing rules. In *Bondad, Jr. v. People*,[33] we also acquitted the accused for the failure of the police to conduct an inventory and to photograph the seized items, without justifiable grounds.

We had the same rulings in *People v. Gutierrez*,[34] *People v. Denoman*,[35] *People v. Partoza*,[36] *People v. Robles*,[37] and *People v. dela Cruz*,[38] where we emphasized the importance of complying with the required mandatory procedures under Section 21 of R.A. No. 9165.

We recognize that the strict compliance with the requirements of Section 21 of R.A. No. 9165 may not always be possible under field conditions; the police operates under varied conditions, and cannot at all times attend to all the niceties of the procedures in the handling of confiscated evidence. For this reason, the last sentence of the implementing rules provides 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[.]" Thus, noncompliance with the strict directive of Section 21 of R.A. No. 9165 is not necessarily fatal to the prosecution's case; police procedures in the handling of confiscated evidence may still have some lapses, as in the present case. These lapses, however, must be recognized and explained in terms of their justifiable grounds, and the integrity and evidentiary value of the evidence seized must be shown to have been preserved.[39]

In the present case, the prosecution did not bother to offer any explanation to justify the failure of the police to conduct the required physical inventory and photograph of the seized drugs. The apprehending team failed to show why an inventory and photograph of the seized evidence had not been made either in the place of seizure and arrest or at the nearest police station (as required by the Implementing Rules in case of warrantless arrests). We emphasize that for the saving clause to apply, it is important that the prosecution explain the reasons behind the procedural lapses, and that the integrity and value of the seized evidence had been preserved.[40] In other words, the justifiable ground for noncompliance must be proven as a fact. The court cannot presume what these grounds are or that they even exist.[41]

The "Chain of Custody" Requirement

Proof beyond reasonable doubt demands that unwavering exactitude be observed in establishing the *corpus delicti* - the body of the crime whose core is the confiscated illicit drug. Thus, every fact necessary to constitute the crime must be established. The chain of custody requirement performs this function in buy-bust operations as it ensures that doubts concerning the identity of the evidence are removed.[42]

Black's Law Dictionary explains chain of custody in this wise:

In evidence, the one who offers real evidence, such as the narcotics in a trial of drug case, must account for the custody of the evidence from the moment in which it reaches his custody until the moment in which it is offered in evidence, and such evidence goes to weight not to admissibility of evidence. *Com. V. White*, 353 Mass. 409, 232 N.E.2d 335.

Likewise, Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002 which implements R.A. No. 9165 defines "chain of custody" as follows:

"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 of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

In *Malillin v. People*,^[43] the Court explained that the chain of custody rule requires that there be testimony about every link in the chain, from the moment the object seized was picked up to the time it is offered in evidence, in such a way that every person who touched it would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain.

In the present case, the prosecution's evidence failed to establish the chain that would have shown that the shabu presented in court was the very same specimen seized from the appellant.

The first link in the chain of custody starts with the seizure of the heat-sealed plastic sachet from the appellant. PO3 Almarez mentioned on cross-examination that he placed his initials on the confiscated sachet "after apprehending" the appellant. Notably, this testimony constituted the totality of the prosecution's evidence on the marking of the seized evidence. PO3 Almarez's testimony, however, lacked specifics on how he marked the sachet and who witnessed the marking. In *People v. Sanchez*, we ruled that the "marking" of the seized items - to truly ensure that they are the same items that enter the chain and are eventually the ones offered in evidence - should be done (1) in the presence of the apprehended violator (2) immediately upon confiscation. In the present case, nothing in the records gives us an insight on the manner and circumstances that attended the marking of the confiscated sachet. Whether the marking had been done in the presence of the appellant is not at all clear from the evidence that merely mentioned that the evidence had been marked after the appellant's apprehension.

The second link in the chain of custody is its turnover from the apprehending team to the police station. PO3 Almarez testified that the appellant was brought to the Diadi Police Station after his arrest. However, he failed to identify the person who had control and possession of the seized drug at the time of its transportation to the police station. In the absence of clear evidence, we cannot presume that PO3 Almarez, as the poseur buyer, handled the seized sachet - to the exclusion of others - during its transfer from the place of arrest and confiscation to the police station. The prosecution likewise failed to present evidence pertaining to the identity of the duty desk officer who received the plastic sachet containing shabu from the buy-bust team. This is particularly significant since the seized specimen was turned over to the PNP Crime Laboratory only after two days. It was not, therefore, clear who had temporary custody of the seized items during this significant intervening period of time. Although the records show that the request for laboratory examination of the seized plastic sachet was prepared by Captain de Vera, the evidence does not show that he was the official who received the marked plastic sachet from the buy-bust team.

As for the subsequent links in the chain of custody, the records show that the seized specimen was forwarded by PO3 Almarez to the PNP Crime Laboratory on December 29, 2003, where it was received by PO2 Dulnuan, and later examined by PSI Quintero. However, the person from whom PO3 Almarez received the seized illegal drug for transfer to the crime laboratory was not identified. As earlier discussed, the identity of the duty desk officer who received the shabu, as well as the person who had temporary custody of the seized items for two days, had not been established.

The procedural lapses mentioned above show the glaring gaps in the chain of custody, creating a reasonable doubt whether the drugs confiscated from the appellant were the same drugs that were brought to the crime laboratory for chemical analysis, and eventually offered in court as evidence. In the absence of concrete evidence on the illegal drugs bought and sold, the body of the crime - the corpus delicti - has not been adequately proven.^[44] In effect, the prosecution failed to fully prove the elements of the crime charged, creating reasonable doubt on the

appellant's criminal liability.

Presumption of Regularity in the Performance of Official Duties

In sustaining the appellant's conviction, the CA relied on the evidentiary presumption that official duties have been regularly performed. This presumption, it must be emphasized, is not conclusive.^[45] It cannot, by itself, overcome the constitutional presumption of innocence. Any taint of irregularity affects the whole performance and should make the presumption unavailable. In the present case, the failure of the apprehending team to comply with paragraph 1, Section 21, Article II of R.A. No. 9165, and with the chain of custody requirement of this Act effectively negates this presumption. As we explained in *Malillin v. People*:^[46]

The presumption of regularity is merely just that - a mere presumption disputable by contrary proof and which when challenged by the evidence cannot be regarded as binding truth. Suffice it to say that this presumption cannot preponderate over the presumption of innocence that prevails if not overthrown by proof beyond reasonable doubt. In the present case the lack of conclusive identification of the illegal drugs allegedly seized from petitioner, coupled with the irregularity in the manner by which the same were placed under police custody before offered in court, strongly militates a finding of guilt.

We are not unmindful of the pernicious effects of drugs in our society; they are lingering maladies that destroy families and relationships, and engender crimes. The Court is one with all the agencies concerned in pursuing an intensive and unrelenting campaign against this social dilemma. Regardless of how much we want to curb this menace, we cannot disregard the protection provided by the Constitution, most particularly the presumption of innocence bestowed on the appellant. Proof beyond reasonable doubt, or that quantum of proof sufficient to produce moral certainty that would convince and satisfy the conscience of those who act in judgment, is indispensable to overcome this constitutional presumption. If the prosecution has not proved, in the first place, all the elements of the crime charged, which in this case is the *corpus delicti*, then the appellant deserves no less than an acquittal.

WHEREFORE, premises considered, we hereby REVERSE and SET ASIDE the May 22, 2007 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01597. Appellant Felimon Pagaduan y Tamayo is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately RELEASED from detention unless he is confined for another lawful cause.

Let a copy of this Decision be furnished the Director, Bureau of Corrections, Muntinlupa City for immediate implementation. The Director of the Bureau of Corrections is directed to report the action he has taken to this Court within five days from receipt of this Decision.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, [*]Abad, and Villarama, Jr., JJ., concur.

[*] Designated additional Member of the Third Division, in view of the retirement of Chief Justice Reynato S. Puno, per Special Order No. 843 dated May 17, 2010.

[1] Penned by Associate Justice Mariano C. del Castillo (now a member of this Court), and concurred in by Associate Justice Arcangelita Romilla Lontok and Associate Justice Romeo F. Barza; rollo, pp. 2-15.

[2] Penned by Judge Jose B. Rosales; CA rollo, pp. 9-15.

[3] *Id.* at 8.

- [4] TSN, July 5, 2004, pp. 3-4; TSN, July 26, 2004, p. 3; see also Joint Affidavit, Records, p. 4.
- [5] TSN, July 5, 2004, p. 4; Records, p. 4.
- [6] TSN, July 19, 2004, pp. 7, 13-14; TSN, July 26, 2004, p. 11; Records, p. 4.
- [7] TSN, July 5, 2004, p. 4.
- [8] TSN, July 19, 2004, pp. 4 and 6.
- [9] TSN, July 5, 2004, pp. 6-8; TSN, July 19, 2004, pp. 5-6; Records, p. 4.
- [10] TSN, July 5, 2004, p. 9; TSN, July 19, 2004, pp. 16-17.
- [11] TSN, July 26, 2004, p. 5.
- [12] TSN, July 5, 2004, p. 10.
- [13] *Id.* at 10-11.
- [14] *Id.* at 10; TSN, July 19, 2004, p. 11; Records, pp. 23-24.
- [15] Records, p. 5.
- [16] TSN, July 19, 2004, pp. 22-23; Records, p. 12.
- [17] TSN, September 13, 2004, pp. 5-6.
- [18] *Id.* at 7-8.
- [19] *Id.* at 8-9.
- [20] *Id.* at 10.
- [21] *Supra* note 2.
- [22] *Supra* note 1.
- [23] CA rollo, pp. 30-44.
- [24] *Id.* at 57-70.
- [25] Integrity of Evidence in Dangerous Drugs Cases by Justice (ret.) Josue N. Bellosillo, 596 SCRA 278 (2009).
- [26] *People v. Garcia*, G.R. No. 173480, February 25, 2009, 580 SCRA 259, 266.
- [27] See *People v. Denoman*, G.R. No. 171732, August 14, 2009, 596 SCRA 257, 267.
- [28] *People v. Kamad*, G.R. No. 174198, January 19, 2010.
- [29] TSN, July 5, 2004, pp. 9-13.
- [30] TSN, July 19, 2004, pp. 17-18.
- [31] G.R. No. 172873, March 19, 2010.
- [32] *Supra* note 26.
- [33] G.R. No. 173804, December 10, 2008, 573 SCRA 497.
- [34] G.R. No. 179213, September 3, 2009, 598 SCRA 92.

[35] Supra note 27.

[36] G.R. No. 182418, May 8, 2009, 587 SCRA 809.

[37] G.R. No. 177220, April 24, 2009, 586 SCRA 647.

[38] G.R. No. 181545, October 8, 2008, 568 SCRA 273.

[39] People v. Sanchez, G.R. No. 175832, October 15, 2008, 569 SCRA 194, 212.

[40] See People v. Almorfe, G.R. No. 181831, March 29, 2010.

[41] People v. de Guzman, G.R. No. 186498, March 26, 2010.

[42] Supra note 39, citing People v. Kimura, 428 SCRA 51 (2004) and Lopez v. People, 553 SCRA 619 (2008).

[43] G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632.

[44] Supra note 28.

[45] See People v. Coreche, G.R. No. 182528, August 14, 2009, 596 SCRA 350, 364.

[46] Supra note 43, at 623.

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