

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CARLITO MATEO Y PATAWID ACCUSED-APPELLANT.

G.R. No. 179036. July 28, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is the Decision[1] of the Court of Appeals in CA-G.R. H.C. CR No. 00709 dated 31 October 2006 which affirmed the Decision of the Regional Trial Court (RTC) of Makati City, Branch 64, in Criminal Case Nos. 03-2337 and 03-2338, finding accused-appellant Carlito Mateo y Patawid guilty of violation of Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as Comprehensive Dangerous Drugs Act of 2002.

On 30 June 2003, two informations were filed against accused-appellant before the RTC of Makati for violating the provisions of Republic Act No. 9165.

In Criminal Case No. 03-2337, accused-appellant violated Section 5,[2] Article II in the following manner:

That on or about the 28[th] day of June 2003, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, give away, distribute and deliver to another zero point ten (0.10) grams, of Methylamphetamine Hydrochloride which is a dangerous drug, in exchange of the amount of Two Hundred Pesos (P200.00).[3]

On the other hand, in Criminal Case No. 03-2338, accused-appellant Patawid was additionally charged with violation of Section 11, Article II of the same law,[4] committed as follows:

That on or about the 28[th] day of June 2003, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, 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 have in his possession, direct custody and control a total of zero point two (0.2) gram of Methylamphetamine Hydrochloride which is a dangerous drug.[5]

Accused-appellant pleaded not guilty to both charges when arraigned on 31 July 2003.[6]

During the pre-trial, the prosecution and the defense stipulated on the following: (1) the issuance of Police Investigation Report after the accused was arrested; (2) the qualification of Forensic Chemist Engr. Richard Allan Mangalip; and (3) the Physical Science Report prepared by the Forensic Chemist. By virtue of said stipulations, the testimony of the Forensic Chemist was dispensed with.

Thereafter, the cases were consolidated and tried jointly.

During the trial, the prosecution presented the following witnesses: (a) Makati Anti-Drug Abuse Council (MADAC) Operative Geraldo Fariñas, a member of the Philippine National Police (PNP) and the designated poseur-buyer; (b) Police Officer 2 (PO2) Rodrigo Igno; and (c) MADAC Operative Oscar Gutierrez, as back-up or members of the operation team.

The defense, on the other hand, presented the lone testimony of the accused.

The prosecution's version of the case is as follows:

On 28 June 2003, Captain Rodolfo Doromal of the Office of MADAC received a report from a confidential informant that an alias Ato was selling illegal drugs along Kalayaan Avenue, Makati City. Acting on said information, they immediately coordinated with the Drug Enforcement Unit (DEU). Thereupon, PO2 Rodrigo Igno and PO2 Barrameda were dispatched to the MADAC Cluster 4 Office where a briefing was immediately held. MADAC Operative Geraldo Fariñas was designated as poseur-buyer with MADAC Operative Oscar Gutierrez, PO2 Igno and PO2 Barrameda as back-up team. Two P100.00 bills were used as buy-bust money. After the briefing, the team, together with the confidential informant, proceeded to Barangay Pitogo, Makati City, for the execution of the buy-bust operation.

At around 8:45 in the evening of 28 June 2003, accused-appellant was found standing along Kalayaan Avenue, Makati City. Upon seeing the accused, the informant and MADAC Operative Fariñas approached him, while the back-up team followed from a distance and positioned themselves. The informant told accused-appellant that MADAC Operative Fariñas was interested in buying shabu. Accused-appellant then asked the informant if the latter was okay,[7] and he replied in the affirmative. MADAC Operative Fariñas handed over the buy-bust money to the accused-appellant. Thereafter, the latter took out from his pocket a plastic sachet and handed the same to MADAC Operative Fariñas. After taking the plastic sachet believed to contain shabu, MADAC Operative Fariñas gave the pre-arranged signal by removing his face towel, which was placed on his right shoulder, to signify that the sale was consummated.

Upon seeing the pre-arranged signal, MADAC Operative Gutierrez, PO2 Igno and PO2 Barrameda came over and asked the accused to empty his pocket. They introduced themselves as MADAC Operatives and Police Officers, and thereafter arrested him. MADAC Operative Gutierrez recovered from the accused the buy-bust money and one black coin purse containing 7 plastic sachets of suspected shabu.[8] PO2 Barrameda informed the accused of the latter's constitutional rights,[9] while PO2 Igno asked for the full name of the accused.[10] MADAC Operative Fariñas marked the pieces of evidence recovered from the accused by placing therein the initials of the accused.[11] The Custodian Officer prepared the list of items taken from the accused and turned over the list to the DEU.[12] Thereafter, the accused was taken to the DEU and afterwards to the PNP Crime Laboratory for drug testing. The dangerous drugs were brought to the PNP Crime Laboratory for examination,[13] which later confirmed the presence of Methylamphetamine hydrochloride.[14]

Expectedly, accused-appellant presented a disparate narration of the incident:

Accused-appellant claimed that at around 9:00 o'clock in the evening of 28 June 2003, while he was walking along Kalayaan Avenue, Makati City, on his way to his live-in partner's house in Bohol Street, Barangay Pitogo, two men suddenly approached and grabbed him claiming they wanted to ask him something. They made him board a blue Toyota Revo and brought him to the barangay hall. The two men asked him if he knew a certain "Eboy" and to point him out to them. The accused told them that he could not point out Eboy because he did not know him and that he was not living in that place. Besides, he said he was in that place because he fetched his live-in partner. When he did not heed their demands, he was brought to a room where they took his picture. He saw plastic sachets of shabu inside the room.[15]

After trial, the court a quo found accused-appellant guilty as charged. The dispositive portion of the trial court's decision reads:

WHEREFORE, in view of the foregoing, judgment is rendered against the accused CARLITO MATEO y PATAWID, ALIAS "ATO" as follows:

- Finding him, GUILTY beyond reasonable doubt of the crime of Violation of Section 5 of R.A. No. 9165 (Crim. Case No. 03-2337) and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00;

- Finding him, GUILTY beyond reasonable doubt of the crime of Violation of Section II of R.A. No. 9165 (Crim. Case No. 03-2338) and considering that the combined weight of the subject shabu is only 0.2 gram sentencing him to suffer the penalty of twelve (12) years and one (1) day of imprisonment, and a fine of P300,000.00

The Branch Clerk of Court is directed to transmit to the Philippines Drug Enforcement Agency (PDEA) the one plastic sachet of shabu (0.10) gram subject matter of Criminal Case No. 03-2337 and the seven plastic sachets of shabu with combined weight of 0.20 gram subject of Criminal Case No. 03-2338 for said agency's appropriate disposition.[16]

On 31 October 2006, the Court of Appeals affirmed the findings and conclusion of the RTC, the fallo of which reads:

WHEREFORE, premises considered, the appeal is DENIED for lack of merit. The Decision dated February 10, 2005 rendered by the Regional Trial Court of Makati City, Branch 64, in Criminal Cases Nos. 03-2337 and 03-2338 finding the accused appellant guilty beyond reasonable doubt of violating Sections 5 and 11 of Article II of Republic Act No. 9165 is affirmed in toto.[17]

Accused-appellant filed a Notice of Appeal on 20 November 2006. The Court of Appeals forwarded the records of the case to us for further review.

In Our Resolution[18] dated 8 October 2007, the parties were notified that they may file their respective supplemental briefs, if they so desired, within 30 days from notice. Both accused-appellant[19] and the People[20] opted not to file supplemental briefs on the ground that they had exhaustively argued all the relevant issues in their respective briefs and that the filing thereof would only entail a repetition of the arguments already discussed.

Accused-appellant raised the following errors[21]:

I

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT; and

II

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCONSISTENT AND INCREDIBLE TESTIMONIES OF THE PROSECUTION WITNESSES.

Accused-appellant contends that the trial court erred in convicting him as his guilt was not proved beyond reasonable doubt. Further, he alleges that the police officers dispensed with the surveillance and immediately conducted the buy-bust operation. He also maintains that there was no basis for the trial court's conviction due to the apparent inconsistencies in the testimonies of the prosecution witnesses.

For the successful prosecution of offenses involving the illegal sale of drugs under Section 5, Article II of Republic Act No. 9165, the following elements must be proven: (1) the identities of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment therefor.[22] What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti.[23]

In the present case, all the elements of the crime have been sufficiently established. Prosecution witnesses MADAC Operative Fariñas, PO2 Igno and MADAC Operative Gutierrez consistently testified that a buy-bust operation did indeed take place. The shabu subject of the sale was presented and duly identified in open court. MADAC Operative Fariñas, being the poseur-buyer, positively identified accused-appellant Mateo as the person who sold the sachet containing a white crystalline substance,[24] which was later confirmed by a chemical analysis to be shabu.[25] The white crystalline substance was placed in a sachet by MADAC Operative Fariñas who marked the same with the initial "CMP" representing the name of accused Carlito Mateo y Patawid. Incidentally, MADAC Operative Fariñas also identified the six (6) sachets of shabu which were placed in the other six sachets and which he, likewise, marked with the initial "CMP." He, together with team members PO2 Igno and MADAC Operative Gutierrez, then brought the sachets with shabu to the PNP Crime Laboratory for examination after securing a letter-request for examination from the DEU Office.

Relevant portions of MADAC Operative Fariñas's testimony that detailed the events leading to the arrest of accused-appellant are as follows:

PROS. BAGAOISAN

Who among you walked in going to Kalayaan?

WITNESS

The informant, PO2 Barrameda, PO2 Igno and Oscar Gutierrez, sir.

PROS. BAGAOISAN

What time did you arrive at Kalayaan St?

WITNESS:

At about 8:45 pm., sir.

PROS. BAGAOISAN

And, what happened after you arrived at Kalayaan St.?

WITNESS

I was introduced by the informant to Alias Ato, sir.

PROS. BAGAOISAN

When you first saw this Alias Ato, what was he doing?

WITNESS

He was standing along Kalayaan Avenue, sir.

PROS. BAGAOISAN

How were you introduced to Alias Ato?

WITNESS

That I was in need and I was going to buy shabu, sir.

PROS. BAGAOISAN

What happened after you were introduced to Alias Ato?

WITNESS

I immediately handed over to him the 200-peso bills, sir.

PROS. BAGAOISAN

After you handed over these 200-peso bills to Alias Ato, what happened next?

WITNESS

He immediately drew from his right pocket a black coin purse, sir.

PROS. BAGAOISAN

And, what happened after he drew the black coin purse?

WITNESS

From there he drew the plastic sachet, sir.

PROS. BAGAOISAN

And, what did he do to this plastic sachet that he drew from this black coin purse?

WITNESS

He handed it over to me, sir.

PROS. BAGAOISAN

After he handed over to you the plastic sachet, what happened next?

WITNESS

I took out my face towel that was placed in my right shoulder signifying that the transaction have already been consummated, sir.

PROS. BAGAOISAN

You mentioned, Mr. Witness, that Alias Ato took out a plastic sachet from the coin purse, if that item which he took out from the coin purse will be shown to you will you be able to identify the same?

WITNESS

Yes, sir.

PROS. BAGAOISAN

I am showing you, Mr. Witness this plastic sachet containing white crystalline substance, will you please go over the same and tell us what relation does this have to the item you purchase from Alias Ato?

WITNESS:

That is the very one, sir.

PROS. BAGAOISAN

Why are you so sure that this is the same item that you bought from Alias Ato?

WITNESS

I placed markings there, sir.

PROS. BAGAOSAN:

What markings did you place in this transparent plastic sachet.

WITNESS

CMP. Sir.

PROS. BAGAOISAN

And, what does this CMP stand for?

WITNESS:

Carlito Mateo y Patawid, sir.

PROS. Bagaoisan

Why CMP, where did you get this name?

WITNESS

PO2 Igno asked for his full name, sir.

PROS. BAGAOISAN

This crystalline substance contained in plastic sachet was previously marked as Exhibit G, Your Honor, and this is the subject of sale. Now, after you gave this signal removing the towel from your right shoulder, what happened next?

WITNESS:

My back up immediately approached us, sir.

PROS. BAGAOISAN

And, who were these back up who approached you?

WITNESS

Oscar Gutierrez, PO2 Igno and PO2 Barrameda, sir.

PROS. BAGAOISAN

After your back up arrived, what did you do next?

WITNESS

I introduced to Alias Ato that I am a member of MADAC, sir.

PROS. BAGAOISAN

After you introduced yourself as a member of MADAC, what happened next?

WITNESS

We arrested him, sir.

PROS. BAGAOISAN

And, what happened after you arrested him?

WITNESS

My back up Oscar Gutierrez recovered seven more plastic sachets suspected to be shabu, sir.

PROS. BAGAOISAN

Where did he recover this seven other plastic sachets?

WITNESS

At the right front pocket, sir.

PROS. BAGAOISAN

If those seven plastic sachets will be shown to you, will you be able to identify the same?

WITNESS

Yes, sir.

PROS. BAGAOISAN

I am showing to you, Mr. Witness, several plastic sachets, seven plastic sachets, will you please go over the same and tell us what relation does this have to the seven plastic sachets recovered by your back (sic) to the possession of Alias Ato?

WITNESS

CMP-1, CMP-2, CMP-3, CMP-4, CMP-5, CMP-6 and CMP-7, these are the plastic sachets that he recovered , sir.

PROS. BAGAOISAN

And, you read before us markings CMP-1 to CMP-7, what does this markings stands for?

WITNESS

Carlito Mateo Patawid, sir

PROS. BAGAOISAN

At what point in time did you place the markings to this transparent plastic sachets including the sachet which is the subject of sale?

WITNESS

Right at the place of operation, sir

PROS. BAGAOISAN

Now, Mr. Witness, earlier you mentioned of a black coin purse where Alias Ato drew a plastic sachet, now, if that black coin purse will be shown to you, will you able to identify the same?

WITNESS

Yes, sir.

PROS. BAGAOISAN

I am showing to you black coin purse, will you please go over the same and tell us what relation does this have to the black coin purse where Alias Ato drew a transparent plastic sachet the one subject matter of the sale?

WITNESS

The shabu was taken out from the black coin purse, sir.

PROS. BAGAOISAN

This black coin purse was previously marked as Exhibit M, Your Honor

COURT

Now, who recovered that black coin purse?

WITNESS

Oscar Gutierrez, my back up, sir.

PROS. BAGAOISAN

Now, do you know, Mr. Witness, if aside from the items taken from this black coin purse, I am referring to the sachet the sachet (sic) that you purchased, where there any other contents in the black coin purse?

WITNESS

No more, sir.

PROS. BAGAOISAN

So, there was only one sachet contained in the black coin purse?

WITNESS

There were eight plastic sachets, the one that was the subject of the sale, and seven other plastic sachets that were later on recovered, sir.

PROS. BAGAOISAN

Now, Mr. Witness, do you recall having issued a statement in connection with the operation that you conducted?

WITNESS

Yes, sir.[26]

We agree with the Court of Appeals that the foregoing testimony of MADAC Operative Fariñas establishes beyond reasonable doubt accused-appellant's culpability. His testimony regarding the circumstances that occurred in the early hours of 28 June 2003 - from the moment their office received a confidential tip from their informer up to the time they accosted appellant - deserve to be given significance as it came from the mouth of a law enforcement officer who enjoys the presumption of regularity in the performance of his duty. Police officers are presumed to have acted regularly in the performance of their official functions in the absence of clear and convincing proof to the contrary or proof that they were moved by ill will.[27]

Accused-appellant's bare-faced defense of denial cannot surmount the positive and affirmative testimony offered by the prosecution. It is well-settled that positive declarations of a prosecution witness prevail over the bare denials of an accused.[28] A defense of denial which is unsupported and unsubstantiated by clear and convincing

evidence becomes negative and self-serving, deserving no weight in law, and cannot be given greater evidentiary value over convincing, straightforward and probable testimony on affirmative matters.[29] Denial is an inherently weak defense which must be supported by strong evidence of non-culpability to merit credibility.[30]

We further reject accused-appellant's argument that no surveillance was conducted before the buy-bust operation.

Prior surveillance is not a pre-requisite for the validity of an entrapment operation, especially when the buy-bust team members were accompanied to the scene by their informant.[31] In the instant case, the arresting officers were led to the scene by poseur-buyer MADAC Operative Fariñas. It has also been ruled in *People v. Tranca*[32] that there is no rigid or textbook method of conducting buy-bust operations. Flexibility is a trait of good police work. The police officers may decide that time is of the essence and dispense with the need for prior surveillance.

Accused-appellant also argued that the prosecution failed to prove that the confiscated drug and the specimen that was weighed and examined in the crime laboratory was identified as the one taken from the accused-appellant.

A forensic examination was conducted by Police Inspector and Forensic Chemical Officer Engr. Richard Allan B. Mangalip and the drugs taken were weighed as shown by Report No. D-777-038,[33] to wit:

A-1 (CMP) = 0.10 g A-5 (CMP-4)=0.01 g

A-2 (CMP-1) = 0.05 g. A-6 (CMP-5)= 0.03g

A-3 (CMP-2) = 0.03 g A-7 (CMP-6)=0.04g

A-4 (CMP-3)= 0.01g

A -8 (CMP-7)=0.03g

Prosecution witness PO2 Igno was presented and he identified the plastic sachets of shabu which all bore the initials "CMP." He substantially corroborated the testimony of Fariñas on all material points. Thus:

Pros. Bagaoisan

I am showing to you Mr. Witness these coin purse and eight (8) plastic sachets containing white crystalline substance. Please go over the same and tell us if this is the same coin purse recovered from the accused and tell us also which of these plastic sachets were the subject of sale transaction and the subject of possession.

Witness

This is the same coin purse where these (7) plastic sachets with suspected shabu are contained. This sachet with marking "CMP" was the subject of sale transaction while the sachets with markings "CMP-1" to "CMP-7" were the subject of possession.

Pros. Bagaoisan

The witness Your Honor identified Exhibit "M" as the coin purse where these seven (7) plastic sachets of suspected shabu are contained. The witness identified Exhibits "E" as the subject of sale while Exhibits "F" to "L" as the subject of possession of the accused. Mr. Witness, where did you bring the accused after you arrested him?

Witness

We brought him to the DEU office, sir.

Pros. Bagaoisan

And what did you do with the dangerous drugs subject matter of these cases?

A We brought the same to the PNP Crime Laboratory for examination, sir.[34]

Another prosecution witness, MADAC Operative Oscar Gutierrez, identified the sachets of shabu and similarly corroborated the testimonies of MADAC Operative Fariñas and PO2 Igno on the details of the incident.

Pros. Bagaoisan

Mr. Witness, you also mentioned in this affidavit that aside from the buy bust money you were also able to recover a black coin purse containing seven (7) plastic sachets of suspected shabu. Now, if that black coin purse will be shown to you, would you be able to identify the same?

Witness

Yes, sir.

Q.

I'm showing to you this black coin purse previously marked as Exhibit "M." Will you please go over it and tell us what relation does this have to the black coin purse that you recovered from the possession of the accused?

A.

This is the same, sir.

Q.

If the seven (7) plastic sachets containing shabu will be shown to you, would you be able to identify the same?

Witness

Yes, sir.

Pros. Bagaoisan

I'm showing to you these seven (7) plastic sachets of suspected shabu contained in this black coin purse. Will you please go over the same and tell us what relation do these have to the plastic sachets of shabu which were recovered from the possession of the accused?

Witness

These are the same, sir.

Pros. Bagaoisan

Your Honor, the witness identified the seven (7) plastic sachets containing white crystalline substance which were previously marked as Exhibits "F" to "L." The witness claims that these are the same plastic sachets containing suspected shabu which are contained in that black coin purse recovered from the possession of the accused. Why are you certain that these are the same sachets that were contained in that black coin purse?

Witness

Because of the initial "CMP", sir.

Pros. Bagaoisan

Were you able to see the shabu subject matter of the sale transaction between the poseur buyer and the accused?

A

No sir, only the exchange.

Q

After you have arrested the accused, where did you bring him?

A

At the DEU office, sir.

Q

What happened there?

A

We asked for a request for drug test, sir.

Q

What about the drugs subject matter of these cases, what did you do with them?

A

We brought the same to PNP Crime Laboratory for examination, sir.[35]

It is worth noting that the defense failed to point out any single mistake or inconsistency in the testimonies of the policemen. Consequently, the respective rulings of the trial court and the Court of Appeals upholding the regularity and legitimacy of the conduct of the buy-bust operation must be affirmed.

The evaluation of testimony is a primary task of trial courts before whom conflicting versions of the same events come up day after day. We emphasize that the trial court's determination on the issue of the credibility of witnesses and its consequent findings of fact must be given great weight and respect on appeal, unless certain facts of substance and value have been overlooked which, if considered, might affect the result of the case. This is so because of the judicial experience that trial courts are in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. It can thus more easily detect whether a witness is telling the truth or not.[36]

Besides, we have held that inconsistencies in the testimonies of witnesses which refer to minor and insignificant details cannot destroy their credibility. Such minor inconsistencies even guarantee truthfulness and candor.[37]

In light of the foregoing, we rule that the guilt of accused-appellant of the crimes charged have been established beyond reasonable doubt. A determination of the appropriate penalties to be imposed upon him is now in order.

Under the law, the illegal sale of shabu or the brokering of any such transaction carries with it 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), regardless of the quantity and purity involved.[38] On the other hand, the illegal possession of less than five (5) grams of said dangerous drug is penalized with 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).[39]

In the imposition of the proper penalty, the courts, taking into account the circumstances attendant in the commission of the offense, are given the discretion to impose either life imprisonment or death, and the fine as provided for by law. In the light, however, of the effectivity of Republic Act No. 9346, entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines," the imposition of the supreme penalty of death

has been prohibited. Consequently, the penalty to be meted out to accused-appellant shall only be life imprisonment and fine.[40] Hence, the penalty of life imprisonment and a fine of P500,000.00 were properly imposed on accused-appellant in Criminal Case No. 03-2337-D for illegal sale of shabu.

As regards the penalty imposed in Criminal Case No. 03-2338, the same should be modified. The period of imprisonment imposed should not be a straight penalty, but should be an indeterminate penalty. Applying the Indeterminate Sentence Law, accused-appellant is sentenced to twelve (12) years and one (1) day, as minimum, to twenty (20) years, as maximum. The P300,000.00 fine imposed by the trial court is affirmed.

WHEREFORE, premises considered, the decision dated 31 October 2006 of the Court of Appeals in CA-G.R. H.C. CR No. 00709, affirming in toto the Decision of the Regional Trial Court of Makati City, Branch 64, in Criminal Cases No. 03-2337 and No. 03-2338, is hereby **AFFIRMED** with the modification that the penalty of imprisonment imposed in Criminal Case No. 03-2338 shall be twelve (12) years and one (1) day, as minimum, to twenty (20) years, as maximum. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Penned by Associate Justice Mariflor P. Punzalan Castillo with Associate Justices Andres Reyes, Jr. and Hakim S. Abdulwahid, concurring. Rollo, pp. 2-14

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

[3] Records, p. 2.

[4] SEC. 11. Possession of Dangerous Drugs.-x x x

x 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.

[5] Records, p. 28.

[6] Rollo, p. 7.

[7] TSN, 9 October 2003, pp. 18-20

[8] TSN, 9 October 2003, p. 10; TSN, 3 June 2004, p. 15; 9 June 2004, p. 9.

[9] TSN, 3 June 2004, p. 15.

[10]Id.

[11]TSN, 9 October 2003, p. 9.

[12]Id. at 33.

[13] TSN, 3 June 2004, p. 18.

[14]Records, p. 17.

[15]TSN, 13 January 2005, p. 10.

[16] Records, p. 104.

[17] CA rollo, pp. 88-89.

[18]Rollo, p. 18.

[19] Id. at 19-21.

[20] Id. at 22-23.

[21] CA rollo, p. 40.

[22] People v. Macabalang, G.R. No. 168694, 27 November 2006, 508 SCRA 282, 293-294.

[23] People v. Padasin, 445 Phil. 448, 461 (2003).

[24] Records, p. 17.

[25] Id.

[26]TSN, 9 October 2003, pp. 7-12.

[27] People v. Torres, G.R. No. 170837, 12 September 2006, 501 SCRA 591, 609, cited in People v. Huang Zhen Hua, G.R. No. 139301, 29 September 2004, 439 SCRA 350, 381.

[28] People v. Vargas, 327 Phil. 387, 397 (1996).

[29]People v. Gonzales, 417 Phil. 342, 353 (2001).

[30]People v. Hivela, 373 Phil. 600, 605 (1999).

[31]People v. Alao, 379 Phil. 402, 413 (2000); People v. Lacbanes, 336 Phil. 933, 941 (1997); People v. Ganguso, G.R. No. 115430, 23 November 1995, 250 SCRA 268, 278-279.

[32]G.R. No. 110357, 17 August 1994, 235 SCRA 455, 463.

[33] Records, p. 17.

[34] TSN, 3 June 2004, pp. 17-18.

[35]TSN, 9 June 2004, pp. 9-11.

[36] People v. Vallador, 327 Phil. 303, 310-311 (1996).

[37] Id. at 312.

[38] Republic Act No. 9165, Article II, Section 5.

[39]Id. at Section 11.

[40] Id.

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