

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO MIGUEL Y BERNABE, AND AMALIA DIZON Y REGACHELO, DEFENDANT-APPELLANTS.

G.R. No. 180505. June 29, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

Assailed in this appeal via Notice of Appeal is the 9 May 2007 Decision[1] of the Court of Appeals in CA-G.R. CR H.C. No. 02115 which affirmed the 16 January 2006 Decision[2] promulgated by the Regional Trial Court (RTC) of Pasig City, Branch 70, in Criminal Case Nos. 12364-D and 12365-D, finding accused-appellants Mario Miguel y Bernabe (Miguel) and Amalia Dizon y Regachelo (Dizon), guilty beyond reasonable doubt of violating Sections 5 and 11, Article II, of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.[3]

Accused-appellants were arrested and charged following a buy-bust operation conducted by the drug enforcement operatives of the Pasig City Police.

On 25 April 2003, two separate Informations were filed against accused-appellants charging them with violating Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

The first Information, docketed as Criminal Case No. 12364-D, was filed against Miguel for violation of Section 5 (illegal sale of shabu), Article II, Republic Act No. 9165, the accusatory portions thereof reading:

Criminal Case No. 12364-D

x x x x

On or about April 24, 2003 in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO3 Amilassan M. Salissa, a police poseur-buyer, one (1) heat-sealed transparent plastic sachet containing sixteen (16) decigrams (0.16 gram) of white crystalline substance, which was found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.[4]

The second Information, docketed as Criminal Case No. 12365-D, accused Dizon of violating Section 11 (illegal possession of shabu), Article II, of the same law, charging her as follows:

Criminal Case No. 12365-D

x x x x

On or about April 24, 2003, in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously have in her possession and under her custody and control one (1) heat-sealed transparent plastic sachet containing twenty six (26) decigrams (0.26 gram), of white crystalline substance, which was found

positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.[5]

The two cases were raffled to Branch 70 of the RTC of Pasig City. When arraigned, albeit on separate dates, accused-appellants, with the assistance of counsel, both entered 'NOT GUILTY' pleas to the charges.[6]

During the pre-trial conference, the defense and the prosecution entered into a stipulation of facts mutually agreeing to dispense with the testimony of Forensic Chemist Inspector Joseph Perdido.[7]

On trial proper, the prosecution presented the following witnesses to adduce evidence against accused-appellants: PO3 Amilassan Salisa (PO3 Salisa), PO1 Janet Sabo (PO1 Sabo) and PO2 Arturo San Andres (PO2 San Andres), all police officers from the Pasig City Police Station.

Observing the demeanor of the witnesses during the hearings for the two criminal cases, the trial court summarized the evidence adduced by the prosecution in this manner:

PO3 AMILASSAN SALISA testified that on April 24, 2003, at about 5:00 o'clock in the afternoon, a confidential informant arrived in their office at the Pasig City Mayor's Special Action Team, City Hall Detachment, Pasig City Police Station, where he was then detailed and reported that one, alias 'Moluk,' was engaged in the sale of illegal drugs in Floodway, Purok 4, Barangay Sta. Lucia, Pasig City. Following his receipt of the report, he informed their Chief, Police Senior Inspector Rodrigo Villaruel who immediately caused the formation of a team to conduct a buy-bust operation composed of himself, who was designated as the poseur-buyer, PO1 Janet Sabo, PO2 Arturo San Andres and PO1 Aldrin Mariano. As the poseur-buyer, he was provided with two (2) pieces of One Hundred Peso (P100.00) bills (Exhs. 'D' and 'E') upon which he placed the markings 'AMS' representing his initials (Exhs. 'D-1' and 'E-1,' respectively) for identification purposes. After a briefing, the team, together with the informant, proceeded to the target area, as abovementioned, arriving there at about 6:00 o'clock in the evening of the aforementioned date. Upon arrival at the target area, and after parking their vehicle, he and the informant alighted first and proceeded by walking to the house of alias 'Moluk' while the other team members positioned themselves nearby to observe the projected buy-bust operation. After he and the informant saw Moluk, they approached him and thereafter, the informant introduced his companion (herein witness) as one who wanted to buy shabu. After a brief conversation, he handed to 'Moluk' the two (2) PHP 100.00 bills and in turn, the latter handed to him one (1) heat-sealed transparent plastic sachet containing white crystalline substance (Exh. 'C-1') upon which, he later placed the markings 'AMS-4/24/03' representing his initials and the date of the buy-bust operation. The buy-bust transaction having been consummated, he immediately gave the pre-arranged signal for his teammates to approach and assist him in the operation. PO1 Janet Sabo who was the first to arrive at the scene of the buy-bust operation, apprehended a female person to whom 'Moluk' also handed a sachet of suspected shabu earlier. PO1 Sabo allegedly recovered from the woman the plastic sachet (Exh. 'C-2') after she opened her hand upon instructions of PO1 Sabo. As to the two (2) One Hundred Peso bills (Exhs. 'D' and 'E'), he was able to recover the same from 'Moluk' right after the buy-bust operation. Both 'Moluk' and the female person who turned out to be Mario Miguel y Bernabe (accused in Criminal Case No. 12364-D), and Amalia Dizon y Regachelo (accused in Criminal Case No. 12365-D), respectively, were subsequently brought to the Pasig Police Station for investigation and filing of the appropriate charge/charges. As part of the investigation, both herein witness as well as PO1 Janet Sabo, executed a 'Pinagsamang Salaysay' consisting of two (2) pages (Exhs. 'F' and 'F-1') narrating the circumstances leading to the arrest of the accused.

PO1 JANET SABO corroborated the above testimony of PO3 Salisa. In addition, PO1 Sabo testified that while PO3 Salisa, the poseur-buyer, was talking with a male person, who was with a female companion, at the place of the buy-bust operation, PO1 Sabo saw PO3 Salisa hand something to the male person and in turn, the latter handed something to Salisa. At this point, Salisa scratched his nape which was the pre-arranged signal indicating the completion of the buy-bust transaction. Upon seeing the signal, she, together with the other team members, immediately rushed to where PO3 Salisa was situated to give him assistance. Upon instructions of PO3 Salisa, she immediately held the female companion of the male person and after introducing herself as a

police officer told the female person to bring out the sachet of suspected shabu which according to PO3 Salisa the male person had earlier handed the female person. At first, the female person refused, but eventually gave in to the demand and brought a plastic sachet containing suspected shabu (Exh. 'C-2'). Thereafter, she placed the markings 'JAS-4/24/03' on the plastic sachet representing her initials and the date of the buy-bust operation (Exhibit "C-2-A"), for identification purposes. Later, they brought the male and female persons, who turned out to be the accused Mario Miguel (in Criminal Case No. 12364-D) and accused Amalia Dizon (in Criminal Case No. 12365-D), respectively, first to the Rizal Medical Center for medical examination and then to the Pasig Police Station. In the course of the investigation conducted, she and PO3 Salisa executed a Joint Affidavit entitled 'Pinagsamang Salaysay' (Exh. 'F' and 'F-1').

For his part, PO2 ARTURO SAN ANDRES testified that being a member of the team which was formed to conduct a buy-bust operation against a suspected drug trafficker at Purok 4, East Bank Road, Floodway, Pasig City, on April 24, 2003, he was with the team when they proceeded to the area on said date. Aside from being a back-up which was his assigned role, he was the one who delivered the request for Laboratory examination (Exh. 'A') together with the specimen subject matter of these cases, to the PNP Crime Laboratory, St. Francis Street, Mandaluyong City, on 24 April 2003, as shown by the Rubber Stamp (Exh. 'A-1') appearing at the bottom left-hand corner of the Request.[8]

Expectedly, accused-appellants Miguel and Dizon presented an entirely different version as they were testifying on the witness stand. Nida Miguel, wife of accused-appellant Miguel, was also presented to corroborate his testimony. After careful observation, the trial court summarized the evidence for the defense as follows:

The first defense witness, accused AMALIA DIZON testified that on April 24, 2003, at about 2:00 o'clock in the afternoon, while she was then outside her house (691 Purok 4, Floodway, Sta. Lucia, Pasig City) sweeping, a male person approached her asking for the whereabouts of one by the name of 'Lyn.' In response, she told the male person that she did not know the person he was looking for. After a while, three (3) male persons in civilian clothes arrived in a vehicle and held the male person who was looking for Lyn. One of the three (3) male persons also held her and when she asked why, she was told to just go with them telling her that they were policemen. Thereafter, she and the male person who was handcuffed were forcibly brought to a vehicle. Once inside the vehicle, one of the three (3) male persons allegedly asked her for PHP5,000.00 in order that she can be released, but she told him that she did not have that amount. While still inside the vehicle, she also told them that she did not know the male person who was taken together with her and when asked by the three (3) male persons, why she was talking with the male person, she told them that at that time, the male person was just looking for somebody. They were brought to the Pasig City Hall where she was detained. After twelve (12) days, she posted bail and was released.

The next defense witness, accused MARIO MIGUEL, testified that on April 23, 2003, at about 3:00 o'clock in the afternoon, while he and his wife were on board a jeepney being then driven by his 'compadre,' a lady by the name of 'Lyn,' who happened to be riding also (in) the same jeepney, asked him if he knows somebody who has a vehicle which can be rented. He answered in the affirmative and then asked the lady where she lived because he will see her the following day and the lady said that she lived along Floodway where, according to her, she is well known. The following day, April 24, 2003, at about 3:00 o'clock in the afternoon, he went to the said place where he met one Amalia Dizon and asked her if she knew Lyn, but Amalia told him she did not know Lyn. It was at this point that he was suddenly arrested by persons whom he concluded were policemen because they had guns. He was frisked, but nothing was recovered from him. Thereafter, he was brought to the vehicle used by the policemen and after a while, Amalia Dizon was likewise brought there. He said he did not know Amalia Dizon personally prior to the above incident. Then, he and Amalia were brought to the Pasig Police Station and detained.

The third and last defense witness, NIDA MIGUEL, wife of accused Mario Miguel, testified that on April 23, 2003, at about 3:00 in the afternoon, they were on board a jeepney driven by their compadre on their way home. While they were seated at the back of the driver's seat, her husband and the driver were talking about

their lives as drivers. Along the way, a female person hailed the jeepney and seated herself in front of them. Having heard the conversation between her husband and the driver, the female passenger asked them if they knew of someone who has a vehicle that can be rented. Her husband Mario then asked the lady passenger, 'Bakit po kayo aarkila ng sasakyan?' and the lady replied, 'For purposes of transferring residence.' (T.S.N., August 9, 2005, p.4) Then her husband asked the lady where she was transferring. In reply, the lady told Mario that she will discuss it first with her husband and asked Mario to visit her in her house. Before alighting from the jeepney, the lady told Mario to 'Go to my house tomorrow and my name is Lyn.' x x x. Accordingly, the following day, after lunch, her husband went to the place mentioned by the lady passenger to look for her which is in front of the MMDA station. Before her husband left, he told her that he will return immediately after she talked with the lady. She waited until evening that day, but her husband never returned. Later, she learned from her husband's aunt that Mario Miguel had been detained at the Pasig Police Station.[9]

On 16 January 2006, the RTC rendered a Decision convicting accused-appellants for illegal sale and illegal possession of shabu under Republic Act No. 9165, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

In Criminal Case No. 12364-D filed against accused Mario Miguel y Bernabe for Violation of Section 5, Article II, Republic Act 9165 (Illegal Sale of Shabu), he is hereby sentenced to LIFE IMPRISONMENT and to pay a FINE of Five Hundred Thousand Pesos (PHP 500,000.00).

In Criminal Case No. 12365-D filed against accused Amalia Dizon y Regachelo for Violation of Section 11, Article II, Article II, (sic) Republic Act 9165 (Illegal Possession of Shabu), said accused is hereby sentenced to Twelve (12) Years and One (1) Day to Twenty (20) Years and to pay a FINE of Three Hundred Thousand Pesos (PHP300,000.00).

Considering the penalty imposed upon accused Mario Miguel, his immediate commitment to the National Penitentiary, New Bilibid Prison, Muntinlupa City, is hereby ordered.

Pursuant to Section 20 of Republic Act 9165, the amount of Two Hundred Pesos recovered from accused Mario Miguel representing the proceeds of the illegal sale of the plastic sachet of shabu is hereby ordered forfeited in favor of the government.

Again, pursuant to Section 21 of the same law, representatives from the Philippine Drug Enforcement Agency (PDEA) is (sic) hereby ordered to take charge and have custody over the sachets of shabu object of these cases, for proper disposition.[10]

The trial court accorded full faith and credence to the testimonies of the police officers and found no clear showing of malice, bad faith or ill-will on their part, applying the presumption of regularity in the performance of official duty.

Raising inconsistencies in the testimonies of the police operatives who conducted the buy-bust operation, accused-appellants elevated the case to the Court of Appeals, which affirmed the RTC decision. The appellate court sustained accused-appellants' conviction in this wise:

WHEREFORE, the instant appeal is DISMISSED and the assailed decision dated January 16, 2006 of the Regional Trial Court of Pasig City, Branch 70, is AFFIRMED in toto.[11]

Hence, accused-appellants are now before this Court assailing said decision on a lone assignment of error, viz.:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT MARIO MIGUEL GUILTY OF VIOLATING SECTION 5, ARTICLE II OF REPUBLIC ACT 9165 AND ACCUSED-APPELLANT AMALIA DIZON GUILTY OF VIOLATING SECTION 11, ARTICLE II OF REPUBLIC ACT 9165.

Essentially, the defense prays for the acquittal of accused-appellants Miguel and Dizon by impugning the credibility of the prosecution witnesses. It argues that inconsistencies in the statements of the police operatives during the trial cast serious doubt as to the guilt of accused-appellants. Against this, the Solicitor General relies on the regularity in the performance of duty of the police officers who produced the evidence that proved the elements of illegal sale and illegal possession of dangerous drugs, or particularly shabu in this instance.

We find that the guilt of accused-appellants for the crime of illegal sale and illegal possession of shabu has been proven beyond reasonable doubt, and is well-supported by evidence, law and jurisprudence.

It is a well-settled rule that prosecutions involving illegal drugs depend largely on the credibility of the police officers who conducted the buy-bust operation.[12] Hence, the evaluation by the trial court of the credibility of witnesses is entitled to the highest respect and will not be disturbed on appeal unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case. The reason for this is that the trial court is in a better position to decide thereon, having personally heard the witnesses and observed their deportment and manner of testifying during the trial. This is explained by the fact that this Court has access only to the cold and impersonal records of the proceedings, thus, it relies heavily on the rule that the weighing of evidence, particularly when there are conflicts in the testimonies of witnesses, is best left to the trial court, which had the unique opportunity to observe their demeanor, conduct and manner while testifying.[13] We find no reason to deviate from this rule in the case before us.

In order to successfully prosecute an accused for illegal sale of drugs, the prosecution must be able to prove the following elements: (1) identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.[14] Material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale had actually taken place, coupled with the presentation in court of evidence of *corpus delicti*. [15] The term *corpus delicti* means the actual commission by someone of the particular crime charged.

On the other hand, in illegal possession of dangerous drugs, the elements are: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug. Similarly, in this case, the evidence of the *corpus delicti* must be established beyond doubt.

In arriving at the appealed decision, both the trial court and the appellate court accorded to the testimony of the police officers the presumption of regularity in the performance of official duty and noted the absence of malice, ill-will, or ill-motive on their part to trump up charges against accused-appellants. As held in *People v. Sariol*, [16] accused-appellants have not shown that the prosecution witnesses were motivated by any improper motive other than that of accomplishing their mission.

Evidence presented for the prosecution showed that at around 6:00 o'clock in the evening of 24 April 2003, Miguel and Dizon were arrested in a buy-bust operation conducted in Purok 4, Sta. Lucia, Pasig City. In the course of the buy-bust operation, Miguel sold and delivered to PO3 Salisa, the poseur-buyer, one transparent plastic sachet containing white crystalline substance for P200.00. Upon a qualitative examination conducted by Forensic Chemist P/Insp. Joseph Perdido of the Eastern Police District Crime Laboratory in Mandaluyong City, the substance contained in the plastic sachet tested positive for Methamphetamine Hydrochloride, or shabu, a dangerous drug.[17]

The principal witnesses clearly established the elements of the crime: that an illegal sale of the dangerous drug actually took place, and that accused-appellant Miguel was the perpetrator of the crime, while accused-appellant Dizon was caught in the possession of a sachet of shabu, weighing 0.26 grams. Contrary to allegations of

inconsistencies, the testimony of PO3 Salisa, the poseur-buyer, was clear and straightforward and narrated the circumstances leading to the buy-bust operation, to wit:

Q.

Will you please state in brief what was that assignment given to you?

A.

On April 24, at about 5:00 p.m., a confidential informant went to our office and informed us regarding (the) activities of alias Moluk, selling drugs, sir.

Q.

Would you know who received that information from the confidential informant?

A.

Me (sic) personally, sir. And after I got the information, I informed our chief, P(olice) Sr. Insp(ector) Villaruel.

Q.

When you informed your Chief Villaruel regarding this information given by the confidential informant, what did your office do, if any?

A.

Our Chief conducted a briefing and instruction, sir. And he designated me as a poseur-buyer and he furnished me (with) two (2) One Hundred Peso (P100.00) bills to be used as a buy-bust money, sir.

x x x x

Q.

And after the briefing, what else happened thereafter, (M)r. Witness, if any?

A.

We proceeded to the given area, sir.

Q.

Where is that given area?

A.

Purok 4, Brgy. Sta. Lucia, Pasig City, sir.

Q.

Did you in fact proceed to said area?

A.

Yes, sir.

Q.

And that was on April 24, 2003, Mr. Witness?

A.

Yes, sir.

Q.

And what time did you arrive at the said area?

A.

On or about 6:00 p.m., sir.

Q.

What happened when you arrived in said Purok 4, Brgy. Sta. Lucia, Pasig City?

A.

We parked our service vehicle and I alighted first, together with the informant. And then, we started to locate the residence of alias Moluk, sir.

x x x x

Q.

And after you have located the residence of alias Moluk, what happened next, if any?

A.

The informant pointed to me alias Moluk, sir.

Q.

And after that, what happened next?

A.

We approached him, sir.

Q.

And what happened next after you approached him?

A.

The informant introduced me to him and then, he asked what do we need, so, we replied, 'iiskor,' sir.

Q.

How were you introduced by the informant?

A.

I was introduced as one who will score, shabu, sir.

Q.

What do you mean by 'score,' (M)r. witness?

A.

I will buy shabu, sir.

Q.

In other words, you were introduced by the informant to alias Moluk as the one interested in buying shabu?

A.

Yes, sir.

Q.

What was the reaction or what was the response of alias Moluk when the confidential informant informed him that you were interested in buying shabu from him?

A.

He looked at me and then, I handed to him the two (2) One Hundred Peso bills, which he accepted, sir.

Q.

And after that, what happened next, (M)r. witness?

A.

He pulled out from his pocket and then, handed to me one (1) heat-sealed transparent plastic sachet containing white crystalline substance, sir.

Q.

And after receiving this one (1) plastic sachet of white crystalline substance, what happened next?

x x x x

A.

I looked at it, sir. And while looking at it, I sent to my companions my pre-arranged signal.

Q.

What happened next, after that?

A.

After I have confirmed that it was a suspected shabu, I held his hand and told him of his constitutional rights, sir.

Q.

Did you find out later what is the true identity of this alias Moluk?

A.

When we were already in the office, we learned of his identity, sir.

Q.

What was his real identity?

A.

Mario Miguel, sir.[18]

As for the participation of accused-appellant Dizon, the following testimony of PO3 Salisa is convincing:

Q.

After you give (sic) your pre-arranged signal, would you know what did (sic) your companion do after that?

A.

After I have sent my pre-arranged signal, PO1 Sabo suddenly arrived. And when she came, I also pointed to her a female person and I told PO1 Sabo that this woman was also handed a shabu, sir.

Q.

Do I understand that alias Moluk gave shabu to this woman?

x x x x

A.

While we were approaching alias Moluk, we saw him talking with a lady, and I saw that he personally handed to her a plastic sachet containing white crystalline substance, sir.

Q.

And as you said earlier, this is the reason why you informed Sabo about the fact that Moluk handed one (1) plastic sachet to this woman?

A.

Yes, sir.

Q.

And when you pointed this woman to Police Officer Sabo, what did you or PO1 Sabo do, if any?

A.

I heard PO1 Sabo instructed the lady to open her hand and there, I saw one (1) plastic sachet containing white crystalline substance, sir.

Q.

And when you and PO1 Sabo found out that this woman was in possession of one (1) plastic sachet, what did you do with her, if any?

A.

It was PO1 Sabo who told her that, "You are holding a shabu, so, I am arresting you."

Q.

Did you find out later on who is this woman, from whom Police Officer Sabo recovered this plastic sachet?

A.

Yes, sir. When we reached our office, we learned that her true identity is Amy. I cannot recall her last name, sir.

Q.

At any rate, Mr. Witness, you stated earlier that you found out later that alias Moluk's real name is Mario Miguel, is that correct?

A.

Yes, sir.

Q.

If ever you will see him again, will you be able to identify him?

A.

Yes, sir.

Q.

Will you please look inside the courtroom and if he is present, will you please step down and approach him, and identify him?

A.

Yes, sir.

COURT INTERPRETER

Witness tapped the shoulder of a male person, who when asked, identified himself as Mario Miguel.

Q.

Although, Mr. Witness, you cannot recall the surname of this woman, whom you can only remember as one who has the name Amy. If ever you will see her again, will you be able to recognize her?

A.

Yes, sir.

Q.

If ever she is present inside this courtroom, will you please step down from the witness stand and identify her?

A.

Yes, sir.

COURT INTERPRETER

Witness tapped the shoulder of a woman who when asked, identified herself as Amy.

PROSECUTOR CRISOLOGO:

May I request the said person be asked the full name, Your Honor?

AMALIA DIZON:

Amalia Dizon, Your Honor.

Q.

What happened to the plastic sachet that you bought from Mario Miguel, alias Moluk?

A.

After I have informed him of his constitutional rights, I handcuffed him and then, I put markings on the sachet,

sir.

Q.

What markings did you place, Mr. Witness?

A.

Exh. A, AMS 4/24/2003, sir.

Q.

As you have described, Mr. Witness, I am showing to you one (1) plastic sachet with said markings, Exh. A, AMS 4/24/03. Will you please look at the same and tell this Honorable Court if this is the very same plastic sachet whom you alleged that Mario Miguel alias Moluk, sold to you?

A.

The same plastic sachet, sir.

PROSECUTOR CRISOLOGO:

May I make it of record, Your Honor, that this plastic sachet has been previously marked as Exhibit C-1 for the prosecution.

Q.

You also mentioned earlier that Sabo, when she requested the woman, now identified as Amalia Dizon, to open her hand, you and Sabo saw that she is also in possession of one (1) plastic sachet, is that correct?

A.

Yes, sir.

Q.

What did you do with this plastic sachet?

A.

It was PO1 Sabo who marked the other sachet, sir.[19]

The establishment of the crimes of which the accused were charged is not weakened by the alleged inconsistencies cited by accused-appellants. The cited inconsistencies pertain to minor details. Inconsistencies referring to minor details strengthen rather than weaken the witness' credibility for they give the impression of rehearsed testimony.[20] As a matter of fact, discrepancies referring only to minor details and collateral matters - not to the central fact of the crime - do not affect the veracity or detract from the essential culpability of witnesses' declarations as long as these are coherent and intrinsically believable on the whole.[21]

Substantiating the charges against accused-appellants, the collective testimonies of all three prosecution witnesses were corroborated by the physical evidence on record as contained in Chemistry Report No. D-745-03E issued by Forensic Chemist Police Inspector Joseph Perdido. Upon laboratory examination, the white crystalline substance confiscated from accused-appellants were positively identified as methamphetamine hydrochloride.[22]

Finally, the defense of accused-appellants that there was no buy-bust operation deserves scant consideration. Having been caught in flagrante delicto, his identity as seller of the shabu can no longer be doubted. Against the positive testimonies of the prosecution witnesses, appellant's plain denial of the offenses charged, unsubstantiated

by any credible and convincing evidence, must simply fail.

Under the law, the illegal sale of shabu 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 of the substance involved. 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).

Reviewing the penalties imposed by the trial court, as affirmed by the Court of Appeals, we find them to be in order.

WHEREFORE, premises considered, the instant appeal is DENIED. The Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02115 dated 9 May 2007 which affirmed the decision of the Regional Trial Court of Pasig City, Branch 70, convicting accused-appellant MARIO MIGUEL y BERNABE of Violation of Section 5, Article II, Republic Act No. 9165 in Criminal Case No. 12364-D, and accused-appellant AMALIA DIZON y REGACHELO for Violation of Section 11, Article II, Republic Act No. 9165 in Criminal Case No. 12365-D is hereby AFFIRMED. No costs.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Del Castillo, JJ., concur.

[1] Penned by Associate Justice Vicente S.E. Veloso with Associate Justices Juan Q. Enriquez, Jr., and Ricardo R. Rosario concurring. Rollo, pp. 2-22.

[2] Penned by Judge Pablito M. Rojas. CA rollo, 53-61.

[3] 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 of 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:

(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 x x x.

[4] Records, pp. 1-2.

[5] Id. at 11-12.

[6] Id. at 46 and 59.

[7] Id. at 67-68.

[8] CA rollo, pp. 55-57.

[9] Id. at 57-59.

[10] Rollo, pp. 60-61.

[11] Id. at 22.

[12] *People v. Almendras*, 449 Phil. 587, 604 (2003).

[13] *People v. Sy*, 438 Phil. 383, 397-398 (2002).

[14] *People v. Villanueva*, G.R. No. 172116, 30 October 2006, 506 SCRA 280, 287.

[15] *Valdez v. People*, G.R. No. 170180, 23 November 2007, 538 SCRA 611, 629.

[16] G.R. No. 83809, 22 June 1989, 174 SCRA 237, 243.

[17] Records, p. 10.

[18] TSN, 5 January 2004, pp. 4-7.

[19] Id. at 7-11.

[20] *People v. Barriga*, G.R. No. 178545, 29 September 2008, 567 SCRA 65, 78.

[21] *People v. Fernando*, G.R. No. 170836, 4 April 2007, 520 SCRA 675, 683-684.

[22] Records, p. 10.

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