

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RASHAMIA HERNANDEZ Y SANTOS AND GRACE KATIPUNAN Y CRUZ, ACCUSED-APPELLANTS.

G.R. No. 184804. June 18, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 02465, dated 26 May 2008, affirming in toto the Decision,[2] dated 14 August 2006, of the Manila Regional Trial Court (RTC), Branch 2, in Criminal Case No. 04-222804, finding accused-appellants Rashamia Hernandez y Santos and Grace Katipunan y Cruz guilty of illegal sale of shabu under Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and imposing upon them the penalty of life imprisonment.

The records of the case bear the following facts:

On 19 January 2004, an Information[3] was filed before the RTC against appellants for illegal sale of shabu under Section 5, Article II of Republic Act No. 9165. The accusatory portion of the information reads:

The undersigned accuses RASHAMIA HERNANDEZ y SANTOS and GRACE KATIPUNAN y CRUZ of Violation of SEC. 5 Article II [of] Republic Act [No.] 9165, committed as follows:

That on or about January 14, 2004, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, not being authorized by law to sell, trade, deliver, or give away any dangerous drug, did then and there willfully, unlawfully and knowingly sell or offer for sale One (1) heat sealed transparent plastic sachet containing ZERO POINT ZERO FOUR SEVEN (0.047) gram of white crystalline substance known as "SHABU" containing methylamphetamine hydrochloride, which is a dangerous drug.

When arraigned on 13 February 2004, appellants, assisted by counsel de oficio, pleaded "Not Guilty" to the charge. Trial on the merits thereafter ensued.

The prosecution presented as witnesses Police Officer 2 Gloybell Dimacali (PO2 Dimacali) and Police Officer 2 Joenardine Carandang (PO2 Carandang), both of whom are members of the Philippine National Police (PNP) and assigned at the Station Anti-Illegal Drugs Unit of Central Market, Sta. Cruz Manila Police Station 3. Their testimonies, taken together, produced the following narrative:

On 14 January 2004, at around 6:00 p.m., an informant went to the Station Anti-Illegal Drugs (SAID) Unit of Central Market, Sta. Cruz Manila Police Station 3 (police station) and reported to Police Chief Inspector Jimmy A. Tiu (Inspector Tiu), head of SAID, and PO2 Dimacali, the drug trafficking activities of a certain Larry and appellants in Callejon Flores, Solis Street, Tondo, Manila. Inspector Tiu formed a team and planned a buy-bust operation. The team agreed that PO2 Dimacali would act as the poseur-buyer, while PO2 Carandang, a certain PO2 Leonard Cipriano, PO2 Napoleon Osias and PO2 Marvin Flores would act as back-up during the buy-bust

operation. Inspector Tiu gave PO2 Dimacali two one-hundred peso bills to be utilized as buy-bust money. PO2 Dimacali marked the monies with "SAID." [4]

At about 8:00 p.m., the team, together with the informant, went to the house of Larry at Callejon Flores, Solis Street, Tondo, Manila. Upon arriving thereat, PO2 Dimacali and the informant proceeded inside Larry's house while the rest of the team positioned themselves outside the house. PO2 Dimacali and the informant approached appellants who were then inside the house. PO2 Dimacali told appellant Katipunan that he would buy two hundred pesos worth of shabu. Appellant Katipunan told appellant Hernandez, "Akin na ang natitira mong isa." Appellant Hernandez brought out from her pocket one transparent plastic sachet containing shabu and handed it to appellant Katipunan. The latter then gave the plastic sachet to PO2 Dimacali. PO2 Dimacali handed the buy-bust money to appellant Katipunan who, in turn, gave it to appellant Hernandez. At this juncture, PO2 Dimacali removed his bull cap as a pre-arranged signal to his back-up team. PO2 Dimacali introduced himself as a police officer and held the hands of appellant Katipunan. Appellant Hernandez ran away but the back-up team chased and caught her, and recovered from her the buy-bust money. [5]

Appellants, as well as the transparent plastic sachet of shabu and the buy-bust money recovered from them, were immediately brought to the police station. Thereupon, the plastic sachet of shabu recovered from appellants was marked by PO2 Dimacali with "GKC" (initials for Grace Katipunan Cruz, the full name of appellant Katipunan) and submitted it, together with the buy-bust money, to Inspector Tiu. The plastic sachet of shabu recovered from appellants was forwarded to the PNP Crime Laboratory of the Western Police District, U.N. Avenue, Ermita, Manila, for laboratory examination. PNP Forensic Chemist Judycel A. Macapagal found the contents thereof to be positive for methylamphetamine hydrochloride or shabu. Upon being weighed, the plastic sachet contained 0.047 gram of shabu. [6]

The prosecution also adduced documentary and object evidence to buttress the testimonies of its witnesses, to wit: (1) letter-request for laboratory examination (Exhibit A); [7] (2) one transparent plastic sachet of shabu (Exhibit B); [8] (3) chemistry report of PNP Forensic Chemist Macapagal (Exhibit C); [9] (4) buy-bust money (Exhibit D); [10] (5) affidavit of apprehension executed by PO2 Dimacali, PO2 Carandang and PO2 Cipriano (Exhibit E); [11] and (6) pre-operation/coordination sheet (Exhibit F). [12]

For its part, the defense proffered the testimonies of appellants and their corroborating witnesses - namely, Maria Victoria Hernandez (Victoria) and Marileth Jacob (Marileth) - to refute the foregoing accusations. Appellants denied any liability and claimed that they were framed.

Appellant Hernandez testified that she visited appellant Katipunan at the latter's house in Tondo, Manila, on the afternoon of 14 January 2004. Later that day, she fell asleep inside the said house. At around 8:00 p.m., she was awakened by a commotion inside the same house. She stood up and saw male persons inside the house arresting appellant Katipunan. She was also apprehended. When she asked the reason for their arrest, one of the male persons retorted, "Huwag na lang kayong magmatapang, sumama na lang kayo." The males introduced themselves as policemen. Subsequently, she, appellant Katipunan, and a certain Reynaldo Soriano (Soriano) -- appellant Katipunans alleged uncle who was with them inside the house during the arrest -- were brought to the police station. Soriano was beaten up by the policemen in the said station, but was released two days after the arrest. [13]

Appellant Katipunan declared she was in her house at 1022 Callejon Flores, Solis Street, Tondo Manila on 14 January 2004. At about 5:00 p.m., appellant Hernandez arrived at her house. At about 8:00 p.m., while watching television inside her house with Soriano, she saw four males destroying the window of her house. These persons entered through the window, ransacked the house, and told her that they were looking for Larry. Thereafter, she,

appellant Hernandez and Soriano were arrested and forcibly brought to the police station. Soriano was subsequently released from detention, because he gave money and a television set to the police officers. The policemen demanded from her P50,000.00 in exchange for her freedom, but she refused to accede.[14]

Victoria, mother of appellant Hernandez, narrated that she lived in the same house with appellant Hernandez at 2109 Pista Street, Sta. Cruz, Manila; that on 14 January 2004, at about 4:00 p.m., she arrived home but could not find appellant Hernandez; that she looked for appellant Hernandez in her relatives' house and in the nightclub where the latter worked as Guest Relations Officer, but to no avail; that on the following day, she was informed by a friend that appellant Hernandez was arrested; that she went to the police station and found appellant Hernandez therein; and that appellant Hernandez was not a drug pusher.[15]

Marileth, friend and neighbor of appellant Katipunan, stated that four males entered appellant Katipunan's house during the incident by destroying its window. She reported the incident to the police, but this was not blotted.[16]

After trial, the RTC rendered a Decision finding appellants guilty of violating Section 5, Article II of Republic Act No. 9165 and imposing upon them the penalty of life imprisonment. They were also ordered to pay a fine of P500,000.00. The dispositive portion of the RTC Decision reads:

WHEREFORE, from the foregoing, judgment is hereby rendered, finding both accused, Rashamia Hernandez y Santos and Grace Katipunan y Cruz, GUILTY beyond reasonable doubt for violation of Sec. 5 Article II of Republic Act [No.] 9165, they are hereby sentenced each to life imprisonment and to pay a fine of P500,000.00 without subsidiary imprisonment in case of insolvency and to pay costs.

The specimen is forfeited in favor of the government and the Branch Clerk of Court, accompanied by the Branch Sheriff, is directed to turn over with dispatch and upon proper receipt the said specimen to the Philippine Drug Enforcement Agency (PDEA) for proper disposal in accordance with the law and rules.[17]

Aggrieved, appellants appealed to the Court of Appeals. On 26 May 2008, the Court of Appeals promulgated its Decision affirming in toto the RTC Decision, thus:

WHEREFORE, in the light of the foregoing, the appeal is DISMISSED for lack of merit. The assailed decision of the court a quo is AFFIRMED.[18]

Appellants filed a Notice of Appeal on 11 June 2008.[19]

In their Brief,[20] appellants assigned the following errors:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE IDENTITY OF THE PROHIBITED DRUG CONSTITUTING THE CORPUS DELICTI OF THE OFFENSE.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

To secure a conviction for illegal sale of shabu, the following essential elements must be established: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and the payment thereof. In prosecutions for illegal sale of shabu, what is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence. In

the case at bar, the prosecution was able to establish through testimonial, documentary and object evidence the said elements.[21]

PO2 Dimacali, the poseur-buyer, testified that appellants sold to him shabu during a legitimate buy-bust operation. His positive identification of appellants and direct account of the transaction are clear, thus:

Asst. Pros. Yap:

Police Officer Dimacali, what was your participation in this police operation against Rashamia Hernandez and Grace Katipunan?

Witness: I was the poseur-buyer in this operation, sir.

Q

Now, when was (sic) this operation took (sic) place?

A

On January 14, 2004 at 8:00 p.m., sir.

Q

Where?

A

Along Callejon Flores, Solis Street, Tondo, Manila.

Q

Now, who was the target person of this operation?

A

A certain Larry, Mia and Grace, sir.

Q

Who furnished you of these particular names, these target persons?

A

Our CI, sir.

Q

When?

A

Personally appeared in our office on January 14.

Q

What time?

A

At about 6:00 p.m., sir.

Q

Aside from these names, what other details submitted by this informant?

A

The informant gave information attended by our Chief, SAID regarding the illegal drug activities of certain Larry, Grace and Mia.

Q

So, what was the response of this Police Commander?

A

Major Tiu formed a team composed of PO1 Cipriano, PO1 Carandang, myself and I was given a specific assignment.

Q

What was the assignment of these Cipriano and Carandang?

A

Back up and arresting officers, sir.

Q

What happened after the team was formed?

A

We were briefed and we were tasked by Major Tiu, sir.

Q

What were the tasks?

A

Back up operatives and I was tasked as poseur-buyer, sir.

Q

What happened next, Mr. Witness?

A

We were given P200.00 by Major Tiu, sir.

Q

When was that?

A

Past 6:00 of January 14, sir.

Q

What was that P200.00 bill for?

A

For our buy bust operation, sir.

Q

How were you able to identify that that is the same money bill used?

A

I put marking on the buy-bust money describing the name of our office and have it xeroxed, sir.

Q

In relation to that bill, what portion of the bill it was marked?

A

Below the seal of the money, sir.

Q

Now, you mentioned about a photocopy of the bill. Can you recognize that bill?

A

Yes, sir.

Q

Who made that machine copy?

A

I, sir.

Q

When?

A

After the briefing made by Major Tiu, sir.

Q

Where is the genuine money bill now?

A

In my possession, sir.

Q

Can you produce that, Mr. Witness?

A

Yes, sir.

Q

Tell us, why this evidence in your possession?

A

I was subpoenaed so I got the records in our office.

Asst. Pros. Yap:

Your Honor, I ask counsel to stipulate the xerox copy with the genuine money if the same faithful reproduction.

Atty. Caing:

Admitted, your Honor.

Asst. Pros. Yap:

Show to us the marking of these two bills?

Witness:

Here, sir, below the seal Central Bank of the money.

Asst. Pros. Yap:

We ask to be marked as Exhibit E, faithful reproduction, and Exhibit E-1.

COURT:

Mark them.

Asst. Pros. Yap:

So, what happened next after receipt of the money?

Witness:

We waited till night and then we proceeded to the target area with the confidential informant.

Q

How far is that from your station?

A

It takes about 25 to 30 minutes, sir.

Q

What means of transportation did you take?

A

Revo car of Cipriano, sir.

Q

So, upon reaching thereat, what exactly did you do?

A

The confidential informant and I walked towards the house of a certain Larry.

Q

What part? Describe to us the house of a certain Larry?

A

It is made of wood and there is a (sic) stairs and composed of two small rooms, sir.

Q

What happened when you arrived in that place?

A

We approached a pregnant woman Grace and told her that we will buy shabu.

Q

Now, who identified this pregnant woman by the name of Grace?

A

The confidential informant told me that the person can be easily identified because she is pregnant and her name is Grace.

Q

Where was the informant at that time?

A

He was with me, sir.

Q

What exactly did you do or say to her?

A

Grace, kukuha ako ng halagang dalawang piso.

Q

So, what was the response of Grace?

A

Without replying, she told to a woman there by the name Mia that - Akin na ang natitira mong isa.

Q

Who uttered that words?

A

Grace, sir.

Q

It was directed to whom?

A

To Mia, sir.

Q

Where was Mia at that time?

A

She was halfway of the stairs, sir.

Q

What happened when she said that to Mia?

A

Mia brought out a sachet and handed it to Grace and Grace handed it to me, sir.

Q

What was that given to Grace by Mia?

A

A small transparent plastic sachet, sir.

Q

What happened thereafter when Grace received the same?

A

I gave a pre-arranged signal by removing my bull cap, sir.

x x x x

Q

How about the P200.00 bills? What happened to it?

A

Cipriano recovered the money from Mia, sir.

Q

Prior to your raising of bull cap, what happened to the P200.00 bill?

A

It was recovered by PO2 Cipriano.

Q

When?

A

After the transaction, sir.

Q

So, what did you do after that?

A

I introduced myself as police officer. When Mia heard the word - pulis, they ran away and my co-police officers chased them.

Q

How about you? What did you do?

A

I already held Grace, sir.

Q

How about Rashamia? What happened to her?

A

Rashamia was arrested by Cipriano, sir.

Q

So, what was recovered from Rashamia?

A

The buy-bust money, sir.

Q

How about Grace? What was recovered from her?

A

None, sir, because the item that I bought from her was already in my possession.

Q

Now, you mentioned about Grace. Can you identify her if she is in the Courtroom now?

A

Yes, sir.

Q

Please do so ...?

A

Yes, sir.

Clerk of Court:

Witness stepped down from the witness stand and approached to a woman inside the Courtroom and tapped her shoulder, when asked and answered the name of Grace Katipunan.

Asst. Pros. Yap:

How about Rashamia Hernandez?

Witness:

This one, sir. (also tapped her shoulder, when asked and gave her name Rashamia Hernandez, one of the accused in this case)

Q

Now, where did you bring these two persons?

A

We brought them to our station, sir.

Q

How about the plastic sachet?

A

The same, sir.

Q

Where did you submit the same?

A

In the office of Major Tiu, sir.

Q

How about the buy-bust money?

A

The same, sir.

Q

Please tell us if you can recognize this transparent plastic sachet submitted to Major Tiu?

A

Yes, sir.

Q

What is your basis in telling us today?

A

I put the marking the initial of Grace Katipunan, sir.

Q

What is the initial?

A

GKC, sir.

Q

What is the meaning of that GKC?

A

Grace Katipunan Cruz.

Q

When did you put this marking?

A

In our office, sir.

Q

When?

A

When we brought them to our station, sir.

Q

After this marking, what happened to this plastic sachet?

A

We made a request for laboratory examination, sir.

Q

To your knowledge, what was the result?

A

Gave positive result, sir.[22]

PO2 Carandang corroborated the aforesaid testimony of PO2 Dimacali on relevant points.[23]

The foregoing testimonies are consistent with the documentary and object evidence submitted by the prosecution. The RTC and the Court of Appeals found the testimonies of PO2 Dimacali and PO2 Carandang to be credible. Both courts also found no ill motive on their part to testify against appellants.

The prosecution adduced as its documentary and object evidence the transparent plastic sachet of shabu sold by appellants to PO2 Dimacali during the buy-bust operation,[24] the chemistry report of PNP Forensic Chemist Macapagal confirming that the plastic sachet sold by appellants to PO2 Dimacali contained 0.047 gram of shabu,[25] and the marked money used during the buy-bust operation.[26]

Conspiracy may be deduced from the mode, method, and manner in which the offense was perpetrated, or inferred from the acts of the accused themselves when such acts point to a joint purpose and design, concerted action, and community of interests.[27] It is clear from the testimony of PO2 Dimacali that appellants were of one mind in selling shabu to him as shown by their series of overt acts during the transaction, to wit: (1) when PO2 Dimacali told appellant Katipunan that he would buy two hundred pesos worth of shabu, appellant Katipunan told appellant Hernandez to give her (appellant Katipunan) one sachet of shabu; (2) appellant Hernandez immediately brought out from her pocket one plastic sachet containing shabu and handed it to appellant Katipunan; (3) after receiving

the plastic sachet of shabu from appellant Katipunan, PO2 Dimacali handed the buy-bust money to the former who, in turn, gave it to appellant Hernandez; (4) When PO2 Dimacali introduced himself as a police officer and announced the arrest, appellants tried to escape; and (5) the buy-bust money was recovered from the possession of appellant Hernandez.[28] No other logical conclusion would follow from the appellants' concerted action except that they had a common purpose and community of interest. Conspiracy having been established, appellants are liable as co-principals regardless of their participation.[29]

The rule is that the findings of the trial court on the credibility of witnesses are entitled to great respect, because trial courts have the advantage of observing the demeanor of the witnesses as they testify. This is more true if such findings were affirmed by the appellate court. When the trial court's findings have been affirmed by the appellate court, said findings are generally binding upon this Court.[30]

To rebut the overwhelming evidence for the prosecution, appellants interposed the defense of denial and frame-up. Appellants denied they sold shabu to PO2 Dimacali during the buy-bust operation and claimed that the arresting officers tried to extort money from them in exchange for their freedom.

The defense of denial and frame-up has been invariably viewed by this Court with disfavor, for it can easily be concocted and is a common and standard defense ploy in prosecutions for violation of the Dangerous Drugs Act.[31] In order to prosper, the defense of denial and frame-up must be proved with strong and convincing evidence.[32] In the case before us, appellants miserably failed to present any evidence in support of their claims. Aside from their self-serving assertions, no plausible proof was presented to bolster their allegations.

Appellants admitted that they did not know PO2 Dimacali, PO2 Carandang and the rest of the back-up team prior to their arrest and could not state any reason why they were arrested and charged with selling shabu, hence negating any improper motive on the part of the arresting officers.[33] When the police officers involved in the buy-bust operation have no ill motive to testify against the accused, the courts shall uphold the presumption that they have performed their duties regularly.[34] Further, appellants have not filed a single complaint for frame-up or extortion against the arresting officers. This inaction clearly betrays appellants' claim of frame-up.

It is true that Victoria and Marileth testified in behalf of appellants. However, their testimonies refer only to peripheral matters and not to the actual buy-bust transaction itself. They were not present in the crime scene during the transaction. In short, they have no personal knowledge of what actually transpired during the actual buy-bust operation. Their testimonies, therefore, deserve scant consideration.

Given the foregoing circumstances, the positive and credible testimonies of the prosecution witnesses prevail over the defense of denial and frame-up of appellants.

Appellants, nonetheless, averred that the buy-bust team did not comply with the procedure in the custody of seized/confiscated dangerous drugs as provided under Section 21, Article II of Republic Act No. 9165, viz:

ARTICLE II
UNLAWFUL ACTS AND PENALTIES

x x x x

SEC. 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. -

x x x x

(1) The apprehending team having initial custody of all dangerous 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;

Appellants also contended that the prosecution failed to establish the identity of the prohibited drug allegedly seized from them based on the following reasons: (1) PO2 Dimacali, PO2 Carandang and the rest of the back-up team did not write their initials on the one transparent plastic sachet allegedly containing shabu immediately after recovering the same from appellants; (2) no inventory or identifying mark was made at the crime scene; (3) the confiscated drug was belatedly marked by PO2 Dimacali at the police station; and (4) Inspector Tiu was not presented as a witness to corroborate PO2 Dimacali's testimony that the latter turned over to the former the seized transparent plastic sachet of shabu after appellants' arrest. Thus, there is doubt on whether the specimen examined by PNP Forensic Chemist Macapagal and eventually submitted to the RTC was the same specimen recovered from appellants. Moreover, the alleged buy-bust operation and buy-bust money was not recorded in the police blotter.[35]

It should be noted that appellants tried to raise the buy-bust team's alleged non-compliance with Section 21, Article II of Republic Act No. 9165 for the first time on appeal. This, they cannot do. It is too late in the day for them to do so. In *People v. Sta. Maria*, [36] in which the very same issue was raised, we held:

The law excuses non-compliance under justifiable grounds. However, whatever justifiable grounds may excuse the police officers involved in the buy-bust operation in this case from complying with Section 21 will remain unknown, because appellant did not question during trial the safekeeping of the items seized from him. Indeed, the police officers' alleged violations of Sections 21 and 86 of Republic Act No. 9165 were not raised before the trial court but were instead raised for the first time on appeal. In no instance did appellant least intimate at the trial court that there were lapses in the safekeeping of seized items that affected their integrity and evidentiary value. Objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of objection. Without such objection, he cannot raise the question for the first time on appeal. (Emphases supplied.)

Moreover, we have held in several cases [37] that non-compliance with Section 21, Article II of Republic Act No. 9165 is not fatal and will not render an accused's arrest illegal or the items seized/confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. [38] In the case at bar, the integrity of the drug seized from appellants was preserved. The chain of custody of the drug subject matter of the instant case was shown not to have been broken.

Records disclosed that after PO2 Dimacali confiscated the one transparent plastic sachet containing shabu from appellants, he immediately brought the same to the police station where he marked it "GKC" and turned it over to Inspector Tiu. [39] The latter then forwarded the said plastic sachet of shabu marked "GKC" to the PNP Crime Laboratory of the Western Police District, U.N. Avenue, Ermita, Manila, for laboratory examination. [40] After a qualitative examination conducted on the contents of the plastic sachet marked "GKC," PNP Forensic Chemist Macapagal found it to be positive for methylamphetamine hydrochloride or shabu. [41] Upon being weighed, the plastic sachet was determined to be containing 0.047 gram of shabu. [42]

When the prosecution presented the plastic sachet of shabu marked "GKC," PO2 Dimacali positively identified it as the one he bought from appellants in the buy-bust operation. [43] The plastic sachet containing 0.047 gram of shabu had the marking "GKC" as attested by PNP Forensic Chemist Macapagal in her chemistry report. [44] The existence, due execution, and genuineness of the said chemistry report, as well as the qualifications of PNP

Forensic Chemist Macapagal as an expert witness, were admitted by the defense.[45] Further, PO2 Dimacali categorically declared during the trial that he put the "GKC" marking on the one transparent plastic sachet of shabu recovered from appellants.[46] Clearly, the identity of the drug recovered from appellants has been duly preserved and established by the prosecution. Hence, there is no doubt that the plastic sachet marked "GKC" submitted for laboratory examination and later on found to be positive for shabu was the same one sold by appellants to PO2 Dimacali during the buy-bust operation.

Besides, the integrity of the evidence is presumed to be preserved unless there is a showing of bad faith, ill will, or proof that the evidence has been tampered with. Appellants in this case bear the burden of showing that the evidence was tampered or meddled with to overcome a presumption that there was regularity in the handling of exhibits by public officers, and that the latter properly discharged their duties.[47] Appellants failed to produce convincing proof that the evidence submitted by the prosecution had been tampered with.

The fact that Inspector Tiu was not presented as a witness to corroborate PO2 Dimacali's testimony does not warrant appellants' acquittal of the crime charged. Not all people who came into contact with the seized drugs are required to testify in court. There is nothing in Republic Act No. 9165 or in any rule implementing the same that imposes such a requirement. As long as the chain of custody of the seized drug was clearly established to have not been broken and the prosecution did not fail to identify properly the drugs seized, it is not indispensable that each and every person who came into possession of the drugs should take the witness stand. In *People v. Zeng Hua Dian*,[48] we ruled:

After a thorough review of the records of this case we find that the chain of custody of the seized substance was not broken and that the prosecution did not fail to identify properly the drugs seized in this case. The non-presentation as witnesses of other persons such as SPO1 Grafia, the evidence custodian, and PO3 Alamia, the officer on duty, is not a crucial point against the prosecution. The matter of presentation of witnesses by the prosecution is not for the court to decide. The prosecution has the discretion as to how to present its case and it has the right to choose whom it wishes to present as witnesses.

Appellants' assertion that the testimonies of the prosecution witnesses were fabricated because the alleged buy-bust operation and buy-bust money were not recorded in the police blotter is unmeritorious. The buy-bust operation conducted on appellants was duly recorded in the police blotter, as shown in the Pre-Operation/Coordination Sheet made and signed by Inspector Tiu.[49] With regard to the non-recording of the buy-bust money in the police blotter, suffice it to state that neither law nor jurisprudence requires that the buy-bust money be entered in the police blotter.[50] At any rate, the non-recording of the buy-bust operation and buy-bust money in the police blotter is not essential, since they are not elements in the illegal sale of dangerous drugs. As earlier discussed, the only elements necessary to consummate the crime is proof that the illicit transaction took place, coupled with the presentation in court of the dangerous drug seized as evidence. Both were satisfactorily proved in the present case.

Since appellants' violation of Section 5, Article II of Republic Act No. 9165 was duly established by the prosecution's evidence, we shall now ascertain the penalties imposable on them.

Under Section 5, Article II of Republic Act No. 9165, the unauthorized sale of shabu, regardless of its quantity and purity, carries with it the penalty of life imprisonment to death and a fine ranging from Five Hundred Thousand Pesos (P500,000.00) to Ten Million Pesos (P10,000,000.00).

Pursuant, however, to the enactment of Republic Act No. 9346 entitled, "An Act Prohibiting the Imposition of Death Penalty in the Philippines," only life imprisonment and fine shall be imposed. Thus, the RTC and the Court of Appeals were correct in imposing the penalty of life imprisonment and fine of P500,000.00 on each of the

appellants.

WHEREFORE, after due deliberation, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02465, dated 26 May 2008, is hereby AFFIRMED in toto.

SO ORDERED.

Ynares-Santiago, (Chairperson), Velasco, Jr., Nachura, and Peralta, JJ., concur.

[1] Penned by Associate Justice Amelita G. Tolentino with Associate Justices Lucenito N. Tagle and Marlene B. Gonzales-Sison, concurring. Rollo, pp. 2-18.

[2] Penned by Judge Alejandro G. Bijasa. CA rollo, pp. 15-22.

[3] Records, p. 1.

[4] TSN, 18 March 2005, pp. 2-4.

[5] Id. at 2-7.

[6] Id. at 7-9.

[7] Records, p. 23; TSN, 30 August 2005, p. 12.

[8] Id.

[9] Records, p. 4.

[10] Id. at 2-3.

[11] Id. at 9.

[12] Id. at 10.

[13] TSN, 20 September 2005, pp. 2-6.

[14] TSN, 21 November 2005, pp. 2-13.

[15] TSN, 7 August 2006, pp. 2-7.

[16] TSN, 22 May 2006, pp. 2-8.

[17] CA rollo, pp. 21-22.

[18] Rollo, p. 17.

[19] CA rollo, pp. 108-109.

[20] Id. at 33-48.

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

[22] TSN, 18 March 2005, pp. 3-9.

[23] TSN, 30 August 2005, pp. 2-7.

[24] Records, p. 23.

[25] Id. at 4.

[26] Id. at 2-3.

[27] Aquino v. Paiste, G.R. No. 147782, 25 June 2008, 555 SCRA 255, 260.

[28] TSN, 18 March 2005, pp. 3-9.

[29] People v. Santiago, supra note 21 at 217.

[30] People v. Naquita, supra note 21 at 444; People v. Santiago, supra note 21 at 217; People v. Concepcion, G.R. No. 178876, 27 June 2008, 556 SCRA 421, 440.

[31] People v. Naquita, id. at 455; People v. Santiago, id. at 224; People v. Concepcion, id. at 443.

[32] Id.

[33] TSN, 20 September 2005, pp. 6-7; TSN, 21 November 2005, p. 13.

[34] People v. Soriano, G.R. No. 173795, 3 April 2007, 520 SCRA 458, 468-469; People v. Nicolas, G.R. No. 170234, 8 February 2007, 515 SCRA 187, 204; People v. Villanueva, G.R. No. 172116, 30 October 2006, 506 SCRA 280, 288.

[35] CA rollo, pp. 41-47.

[36] G.R. No. 171019, 23 February 2007, 516 SCRA 621, 633-634.

[37] People v. Agulay, G.R. No. 181747, 26 September 2008, 566 SCRA 571, 595; People v. Naquita, supra note 21 at 448; People v. Concepcion, supra note 30 at 436-437; People v. Del Monte, supra note 21 at 636.

[38] Id.

[39] TSN, 18 March 2005, pp. 7-8.

[40] Records, p. 4.

[41] Id. at 4 and 23; TSN, 30 August 2005, p. 12.

[42] Id.

[43] TSN, 18 March 2005, p. 8.

[44] Records, pp. 4 and 23; TSN, 30 August 2005, p. 12.

[45] Id. at 23.

[46] Id. at 8-9.

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

[48] G.R. No. 145348, 14 June 2004, 432 SCRA 25, 32.

[49] Records, p. 10.

[50] People v. Concepcion, supra note 30 at 441; People v. Santiago, supra note 21 at 222.

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