

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ERLINDA CAPUNO Y TISON, APPELLANT.*G.R. No. 185715. January 19, 2011*

Ponente: BRION, J.

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We review the May 27, 2008 decision[1] of the Court of Appeals (CA) in CA-G.R. CR No. 30215, affirming with modification the April 3, 2006 decision[2] of the Regional Trial Court (RTC), Branch 75, San Mateo, Rizal. The RTC decision found Erlinda Capuno y Tison (appellant) guilty beyond reasonable doubt of illegal sale of shabu, under Section 5, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

ANTECEDENT FACTS

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

That on or about the 21[st] day of July 2002, in the Municipality of Rodriguez, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and knowingly sell, deliver and give away to another, one (1) heat-sealed transparent plastic sachet of white crystalline substance weighing 0.04 gram which was found positive to the test for Methamphetamine Hydrochloride, a dangerous drug, and which substance produces a physiological action similar to amphetamine or other compound thereof providing similar physiological effects.

CONTRARY TO LAW.[3]

The appellant pleaded not guilty to the charge.[4] The prosecution presented Police Officer 1 (PO1) Jose Gordon Antonio and PO1 Fortunato Jiro III at the trial. The appellant and Maria Cecilia Salvador took the witness stand for the defense.

PO1 Antonio narrated that at around 11:10 a.m. of July 21, 2002, he was at the Rodriguez Police Station when a civilian informant arrived and told him that a woman was openly selling dangerous drugs on Manggahan Street, Barangay Burgos, Montalban, Rizal. Upon receiving this information, he, PO1 Joseph G. Fernandez, and PO1 Jiro planned an entrapment operation: he (PO1 Antonio) was designated as the poseur-buyer, while his two companions would act as back-up. Before leaving the police station, they asked the desk officer to record their operation.[5] They went to Manggahan Street, and when they were near this place, the informant pointed to them the appellant. PO1 Antonio alighted from the vehicle, approached the appellant, and told her, "Paiskor ng halagang piso"; he then handed the pre-marked one hundred peso bill to her. The appellant pulled out a plastic sachet from her left pocket and gave it to PO1 Antonio. PO1 Antonio immediately held the appellant's arm, introduced himself to her, and stated her constitutional rights. It was at this time that PO1 Fernandez and PO1 Jiro approached them; PO1 Jiro recovered the marked money from the appellant. They brought the appellant to the

police station for investigation.[6] According to PO1 Antonio, the police forwarded the seized item to the Eastern Police District Crime Laboratory for examination.[7]

PO1 Jiro testified that at around 11:00 a.m. of July 21, 2002, he was at the Rodriguez Police Station when a confidential asset called and informed the police that he saw one "alias Erlinda" selling illegal drugs. The police planned a buy-bust operation wherein they prepared a one hundred peso bill (P100.00) marked money, and designated PO1 Antonio as the poseur buyer. Afterwards, PO1 Jiro, PO1 Antonio, PO1 Fernandez, and the confidential asset left the police station and proceeded to Manahan Street. On their arrival there, the confidential asset pointed to them the appellant.[8] PO1 Antonio alighted from the vehicle, approached the appellant, and talked to her. Thereafter, PO1 Antonio handed the marked money to the appellant; the appellant took "something" from her pocket and handed it to PO1 Antonio.[9] Immediately after, PO1 Antonio arrested the appellant. He (PO1 Jiro) and PO1 Fernandez approached the appellant; he recovered the marked money from the appellant's left pocket. They brought the appellant to the police station and asked the duty officer to blotter the incident. Afterwards, they brought the appellant to the police investigator; they also made a request for a laboratory examination.[10]

On cross-examination, PO1 Jiro stated that he was 10 meters away from PO1 Antonio when the latter was transacting with the appellant. He maintained that the buy-bust operation took place outside the appellant's house.[11] He recalled that the appellant had two other companions when they arrived. When they arrested the appellant, some residents of the area started a commotion and tried to grab her.[12]

The testimony of Police Inspector Abraham Tecson, the Forensic Chemist, was dispensed with after both parties stipulated on the result of the examination conducted on the specimen submitted to the crime laboratory.

On the hearing of April 14, 2004, the prosecution offered the following as exhibits:

Exhibit "A" - the Sinumpaang Salaysay of PO1 Antonio, PO1 Jiro and PO1 Fernandez

Exhibit "B" - the request for laboratory examination

Exhibit "C" - Chemistry Report No. D-1373-02E

Exhibit "D" - the buy-bust money

Exhibit "E" - Chemistry Report No. RD-78-03

Exhibit "F" - the specimen confiscated from the appellant

Exhibit "G" - Police Blotter[13]

The defense presented a different version of the events.

The appellant testified that at around 11:00 a.m. of July 21, 2002, she was inside her house and lying on the bed, together with her 15-year old daughter, when two persons, who introduced themselves as police officers, entered her house. They wore maong pants and sando. They asked her if she was Erlinda Capuno and when she answered in the affirmative, they searched her house.[14] They invited the appellant and her daughter to the Municipal Hall of Montalban, Rizal when they did not find anything in the house. Upon arriving there, the police told her to reveal the identity of the person who gave her shabu. When she answered that she had no idea what they were talking about, the police put her in jail.[15] The appellant further stated that she saw the seized specimen only in court.[16]

On cross-examination, the appellant denied that she had been selling illegal drugs. She explained that she consented to the search because she believed that the two persons who entered her house were policemen.[17]

Maria, the appellant's daughter, corroborated her mother's testimony on material points, but stated that the two policemen did not search their house but merely "looked around." [18]

The RTC, in its decision [19] of April 3, 2006, convicted the appellant of the crime charged, and sentenced her to suffer the indeterminate penalty of imprisonment for twelve (12) years and one (1) day to twelve (12) years, ten (10) months and twenty (20) days. The RTC likewise ordered the appellant to pay a P100,000.00 fine.

The appellant appealed to the CA, docketed as CA-G.R. CR No. 30215. The CA, in its decision [20] dated May 27, 2008, affirmed the RTC decision with the modification that the appellant be sentenced to life imprisonment, and that the amount of fine be increased to P500,000.00.

The CA found unmeritorious the appellant's claim that the prosecution witnesses were not credible due to their conflicting statements regarding the place of the buy-bust operation. As the records bore, PO1 Antonio stated that they conducted the entrapment operation on Manggahan Street; PO1 Jiro testified that it was held on Manahan Street. The CA, nevertheless, ruled that PO1 Jiro made a slip of the tongue as there was no Manahan Street in Barangay Burgos, Montalban, Rizal. [21]

The CA added that despite the minor inconsistencies in the testimonies of PO1 Antonio and PO1 Jiro, the records do not show that they were ever motivated by any ulterior motive other than their desire to help wipe out the drug menace. It added that the appellant's denial cannot prevail over the positive identification made by the prosecution witnesses, who, as police officers, performed their duties in a regular manner. [22]

Finally, the CA held that all the elements of illegal sale of dangerous drugs had been established. [23]

In her brief, [24] the appellant claims that the lower courts erred in convicting her of the crime charged despite the prosecution's failure to prove her guilt beyond reasonable doubt. She harps on the fact that PO1 Antonio and PO1 Jiro gave conflicting statements on how they came to know of her alleged illegal activities. On one hand, PO1 Antonio claimed that an informant went to the police station and told them that the appellant was openly selling illegal drugs; PO1 Jiro, on the other hand, stated that a civilian informant called the police and informed them of the appellant's illegal activities. The appellant also alleges that the testimonies of these two witnesses differ as regards the actual place of the entrapment operation. She further argues that the police did not coordinate with the Philippine Drug Enforcement Agency (PDEA) in conducting the buy-bust operation.

The appellant likewise contends that the prosecution failed to show an unbroken chain of custody in the handling of the seized specimen. She claims that the apprehending team did not mark the seized items upon confiscation. Moreover, there was no showing that the police inventoried or photographed the seized items in her presence or her counsel, a representative of the media and the Department of Justice (DOJ), and any elected public official. [25]

For the State, the Office of the Solicitor General (OSG) counters with the argument that the testimonies of the police officers prevail over the appellant's bare denial, more so since there was nothing in the records to show that they were motivated by any evil motive other than their desire to curb the vicious drug trade. [26]

The OSG added that when the buy-bust operation took place on July 21, 2002, there was no institution yet known as the PDEA, as the Implementing Rules of R.A. No. 9165 (IRR) took effect only on November 27, 2002. [27] It further claimed that the failure to comply with the Dangerous Drugs Board Regulations was not fatal to the prosecution of drug cases. [28]

THE COURT'S RULING

After due consideration, we resolve to acquit the appellant for the prosecution's failure to prove her guilt beyond reasonable doubt.

In considering a criminal case, it is critical to start with the law's own starting perspective on the status of the accused - in all criminal prosecutions, he is presumed innocent of the charge laid unless the contrary is proven beyond reasonable doubt.[29] The burden lies on the prosecution to overcome such presumption of innocence by presenting the quantum of evidence required. In so doing, the prosecution must rest on its own merits and must not rely on the weakness of the defense. And if the prosecution fails to meet the required amount of evidence, the defense may logically not even present evidence on its own behalf. In which case, the presumption prevails and the accused should necessarily be acquitted.[30]

The requirements of paragraph 1, Section 21 of Article II of R.A. No. 9165

In a prosecution for the illegal sale of a prohibited drug under Section 5 of R.A. No. 9165, the prosecution must prove the following elements: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. All these require evidence that the sale transaction transpired, coupled with the presentation in court of the corpus delicti, i.e., the body or substance of the crime that establishes that a crime has actually been committed, as shown by presenting the object of the illegal transaction. To remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the appellant; otherwise, the prosecution for possession or for drug pushing under R.A. No. 9165 fails.[31]

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

1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]

This procedure, however, was not shown to have been complied with by the members of the buy-bust team, and nothing on record suggests that they had extended reasonable efforts to comply with the said statutory requirement in handling the evidence. The deficiency is patent from the following exchanges at the trial:

FISCAL ROMNIEL MACAPAGAL:

Q: Upon arrival at Manggahan Street, what did x x x your group do?

PO1 JOSE GORDON ANTONIO:

A: We proceeded to the place and before we reach[ed] that place[,] our civilian asset pointed to us the suspect.

Q: After your civilian informer pointed to the suspect, what did your group do?

A: I alighted from our private vehicle at the time and I was the one who talked to Erlinda Capuno.

Q: You said [that] you talked to Erlinda Capuno, what did you tell her when you approached her?

A: I told her "Paiskor ng halagang piso."

Q: When you told this to Erlinda that you buy one Hundred Peso of shabu, what did he do? [sic]

A: When I gave her on [sic] piece of the marked money[,] he [sic] pulled out something from her pocket.

Q: What is the denomination of the marked money?

A: One Hundred Peso bill.

Q: Upon receiving the plastic sachet, what did you do next?

A: After she gave me the suspected shabu, I held her by the arm and my two companions who [were] then seeing me approached me. [sic]

Q: What is the purpose of holding the hands of Erlinda when you received this plastic sachet?

A: When I took the plastic sachet that was the time I held her and after that I introduced myself and explained to her Constitutional rights. [sic]

Q: After arresting Erlinda, where did you proceed?

A: We brought her to the Police Station for investigation where she gave her full name and also turned over the suspected items[.]

Q: Who recovered the buy-bust money?

A: Police Officer Hero [sic], Sir.

Q: You stated you were the one who handed the buy bust money to Erlinda. Do you have that buy bust money with you?

A: After I gave the marked money to her[,] she picked from her left pocket the suspected shabu and Police Officer Hero recovered the money. [sic]

x x x x

Q: The alleged specimen you got from Erlinda, where is it now?

A: We brought it to the Eastern Police District Crime Laboratory for examination.

Q: Were you able to know the result of this examination?

A: Yes, Sir. When we returned we already have the result.[32]

From the foregoing exchanges, it is clear that the apprehending team, upon confiscation of the drug, immediately brought the appellant and the seized specimen to the police station. No physical inventory and photograph of the seized items were taken in the presence of the appellant or her counsel, a representative from the media and the DOJ, and an elective official. We stress that PO1 Antonio's testimony was corroborated by another member of the apprehending team, PO1 Jiro, who narrated that after arresting the appellant, they brought her and the seized item to the police station. At no time during PO1 Jiro's testimony did he even intimate that they inventoried or photographed the confiscated item.

A review of jurisprudence, even prior to the passage of R.A. No. 9165, shows that this Court did not hesitate to strike down convictions for failure to follow the proper procedure for the custody of confiscated dangerous drugs. Prior to R.A. No. 9165, the Court applied the procedure required by Dangerous Drugs Board Regulation No. 3, Series of 1979, amending Board Regulation No. 7, Series of 1974.[33] Section 1 of this Regulation requires the apprehending team, having initial custody and control of the seized drugs, to immediately inventory and photograph the same in the presence of the accused and/or his representatives, who shall be required to sign the copies of the inventory and be given a copy thereof.

The Court remained vigilant in ensuring that the prescribed procedures in the handling of the seized drugs were observed after the passage of R.A. No. 9165. In *People v. Lorenzo*,^[34] we acquitted the accused for failure of the buy-bust team to photograph and inventory the seized items. *People v. Garcia*^[35] likewise resulted in an acquittal because no physical inventory was ever made, and no photograph of the seized items was taken under the circumstances required by R.A. No. 9165. In *Bondad, Jr. v. People*,^[36] we also acquitted the accused for the failure of the police to conduct an inventory and to photograph the seized item, without justifiable grounds.

We had the same rulings in *People v. Gutierrez*,^[37] *People v. Denoman*,^[38] *People v. Partoza*,^[39] *People v. Robles*,^[40] and *People v. dela Cruz*,^[41] where we emphasized the importance of complying with the required procedures under Section 21 of R.A. No. 9165.

To be sure, Section 21(a), Article II of the IRR offers some flexibility in complying with the express requirements under paragraph 1, Section 21, Article II of R.A. No. 9165, i.e., "non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]" This saving clause, however, applies only where the prosecution recognized the procedural lapses, and, thereafter, explained the cited justifiable grounds, and when the prosecution established that the integrity and evidentiary value of the evidence seized had been preserved.^[42]

These conditions were not met in the present case, as the prosecution did not even attempt to offer any justification for its failure to follow the prescribed procedures in the handling of the seized items.

The "Chain of Custody" Requirement

Proof beyond reasonable doubt demands that unwavering exactitude be observed in establishing the corpus delicti - the body of the crime whose core is the confiscated illicit drug. Thus, every fact necessary to constitute the crime must be established. The chain of custody requirement performs this function in buy-bust operations as it ensures that doubts concerning the identity of the evidence are removed.^[43]

Board Regulation No. 1, Series of 2002, defines chain of custody as "the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction." As a method of authenticating evidence, the chain of custody rule requires that the admission of the exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would, thus, include a testimony about the every link in the chain, from the moment the item was seized to the time it was offered in court as evidence, such that every person who handled the same would admit as to how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. The same witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same. It is from the testimony of every witness who handled the evidence from which a reliable assurance can be derived that the evidence presented in court is one and the same as that seized from the accused.^[44]

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

The first crucial link in the chain of custody starts with the seizure of the plastic sachet from the appellant. From the testimonies and joint affidavit of PO1 Antonio and PO1 Jiro, it is clear that the police did not mark the

confiscated sachet upon confiscation. Marking after seizure is the starting point in the custodial link, thus it is vital that the seized contraband is immediately marked because succeeding handlers of the specimen will use the markings as reference. The marking of the evidence serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of criminal proceedings, obviating switching, "planting," or contamination of evidence.[45]

The second link in the chain of custody is its turnover from PO1 Antonio to the police station. Both PO1 Antonio and PO1 Jiro testified that they brought the appellant and the seized item to the police station. They, however, failed to identify the person to whose custody the seized item was given. Although the records show that the request for laboratory examination of the seized item was prepared by the Chief of Police, Police Senior Inspector Anastacio Benzon, the evidence does not show that he was the official who received the marked plastic sachet from PO1 Antonio.

As for the subsequent links in the chain of custody, the records show that the seized item was forwarded to the Philippine National Police Crime Laboratory by a certain PO1 Sanchez. We stress, however, that PO1 Sanchez forwarded the said specimen only on the next day, or on July 22, 2002. To harp back to what we earlier discussed, there was a missing link in the custody of the seized drug after it left the hands of PO1 Antonio. We cannot, therefore, presume that PO1 Sanchez had custody of the specimen in the interim. We also stress that the identity of the person who received the seized item at the crime laboratory was not clearly identified.

Due to the procedural lapses pointed out above, serious uncertainty hangs over the identification of the seized shabu that the prosecution introduced into evidence. In effect, the prosecution failed to fully prove the elements of the crime charged, creating a reasonable doubt on the criminal liability of the accused.

Credibility of the Prosecution Witnesses

We likewise cannot acquiesce to the credibility accorded to the prosecution witnesses by the courts a quo. Contrary to the lower courts' ruling, the inconsistencies in the statements of the prosecution witnesses are substantial, not trivial. To recall, PO1 Antonio, PO1 Jiro and PO1 Fernandez stated in their Pinagsamang Sinumpaang Salaysay[46] that a civilian asset arrived at the police station on July 21, 2002, and informed them that one "alias Erlinda" was selling illegal drugs on Manahan Street, Barangay Burgos, Rodriguez, Rizal. PO1 Antonio reiterated this fact when he testified in court that a civilian informant arrived at the police station on July 21, 2002 and told them that a woman was openly selling dangerous drugs on Manggahan Street, Barangay Burgos, Montalban, Rizal. PO1 Jiro, however, changed his story in court and testified that the confidential informant called the police and informed them that one "alias Erlinda" was selling illegal drugs.

We are at a loss how PO1 Antonio and PO1 Jiro could have given different accounts regarding how the confidential asset informed them of the appellant's illegal activities when both of them were present at the police station on July 21, 2002. What baffles us even more is why PO1 Jiro's gave conflicting statements in his joint affidavit and in his court testimony. To us, the conflicting statements and declarations of PO1 Antonio and PO1 Jiro destroyed their credibility; it made their testimonies unreliable. Evidence to be believed must not only proceed from the mouth of a credible witness but it must be credible in itself, such as the common experience and observation of mankind can approve as probable under the circumstances.[47]

Presumption of Regularity in the Performance of Official Duties

In sustaining the appellant's conviction, the CA also relied on the evidentiary presumption that official duties have been regularly performed. This presumption, it must be stressed, is not conclusive. It cannot, by itself, overcome

the constitutional presumption of innocence. Any taint of irregularity affects the whole performance and should make the presumption unavailable.[48] The presumption, in other words, obtains only when nothing in the records suggests that the law enforcers involved deviated from the standard conduct of official duty as provided for in the law. But where the official act in question is irregular on its face, as in this case, an adverse presumption arises as a matter of course.[49] As we explained in *People v. Sanchez*:

While the Court is mindful that the law enforcers enjoy the presumption of regularity in the performance of their duties, this presumption cannot prevail over the constitutional right of the accused to be presumed innocent and it cannot, by itself constitute proof of guilt beyond reasonable doubt. The presumption of regularity in the performance of official duty cannot be used as basis for affirming accused-appellant's conviction because "First, the presumption is precisely just that - a mere presumption. Once challenged by evidence, as in this case, xxx [it] cannot be regarded as binding truth. Second, the presumption of regularity in the performance of official functions cannot preponderate over the presumption of innocence that prevails if not overthrown by proof beyond reasonable doubt." The presumption also cannot prevail over positive averments concerning violations of the constitutional rights of the accused. In short, the presumption of regularity in the performance of official duty cannot by itself overcome the presumption of innocence nor constitute proof beyond reasonable doubt.[50]

All told, we find merit in the appellant's claim that the prosecution failed to discharge its burden of proving her guilt beyond reasonable doubt, due to the unreliability of the testimonies of the prosecution witnesses and substantial gaps in the chain of custody, raising reasonable doubt on the authenticity of the corpus delicti.

WHEREFORE, premises considered, we hereby REVERSE and SET ASIDE the May 27, 2008 Decision of the Court of Appeals in CA-G.R. CR No. 30215. Appellant Erlinda Capuno y Tison is hereby ACQUITTED for failure of the prosecution to prove her guilt beyond reasonable doubt. She is ordered immediately RELEASED from detention unless she is confined for another lawful cause.

Let a copy of this Decision be furnished the Superintendent, Correctional Institution for Women, Mandaluyong City, for immediate implementation. The Superintendent of the Correctional Institution for Women is directed to report the action she has taken to this Court within five (5) days from receipt of this Decision.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Penned by Associate Justice Monina Arevalo-Zenarosa, and concurred in by Associate Justice Edgardo F. Sundiam and Associate Justice Sixto C. Marella, Jr; rollo, pp. 3-12.

[2] Penned by Judge Elizabeth Balquin-Reyes; CA rollo, pp. 9-17.

[3] Records, p. 1.

[4] Id. at 23-24.

[5] TSN, October 30, 2002, pp. 2-3.

[6] Id. at 3-5.

[7] Id. at 6.

[8] TSN, March 5, 2003, pp. 3-4.

- [9] Id. at 5-6.
- [10] Id. at 6-7.
- [11] TSN, March 31, 2003, pp. 5-6.
- [12] Id. at 9-10.
- [13] Records, pp. 120-121.
- [14] TSN, January 24, 2004, pp. 3-4.
- [15] Id. at 5.
- [16] Id. at 8.
- [17] Id. at 8-9.
- [18] TSN, July 13, 2005, pp. 1-11.
- [19] Supra note 2.
- [20] Supra note 1.
- [21] Rollo, p. 8.
- [22] Id. at 9-10.
- [23] Id. at 10.
- [24] CA rollo, pp. 29-39.
- [25] Id. at 33-38.
- [26] Id. at 62-64.
- [27] Id. at 69.
- [28] Id. at 69-71.
- [29] *People v. Sanchez*, G.R. No. 175832, October 15, 2008, 569 SCRA 194, 207.
- [30] *People v. dela Cruz*, G.R. No. 177222, October 29, 2008, 570 SCRA 273, 283.
- [31] See *People v. Pagaduan*, G.R. No. 179029, August 12, 2010.
- [32] Supra note 5, at 3-6.
- [33] See *People v. Magat*, G.R. No. 179939, September 29, 2008, 567 SCRA 86, 95.
- [34] G.R. No. 184760, April 23, 2010.
- [35] G.R. No. 173480, February 25, 2009, 580 SCRA 259.
- [36] G.R. No. 173804, December 10, 2008, 573 SCRA 497.
- [37] G.R. No. 179213, September 3, 2009, 598 SCRA 92.
- [38] G.R. No. 171732, August 14, 2009, 596 SCRA 257.
- [39] G.R. No. 182418, May 8, 2009, 587 SCRA 809.

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

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

[42] *People v. Garcia*, supra note 35.

[43] *People v. Sanchez*, supra note 29, citing *People v. Kimura*, 428 SCRA 51 (2004) and *Lopez v. People*, 553 SCRA 619 (2008).

[44] See *People v. Obmiranis*, G.R. No. 181492, December 16, 2008, 574 SCRA 140, 149.

[45] See *People v. Coreche*, G.R. No. 182528, August 14, 2009, 596 SCRA 350, 357.

[46] Records, p. 10.

[47] See also *Zarraga v. People*, G.R. No. 162064, March 14, 2006, 484 SCRA 639, a case that, although not squarely in point, underscores the importance of consistency in the statements of the members of the buy-bust team. In the said case, the Court reversed a guilty verdict for violation of Section 5 of R.A. No. 9165 largely due to the conflicting testimonies of the police officers who conducted the operation on when and where the seized drugs were marked.

[48] *People v. Pagaduan*, supra note 31.

[49] *Cariño v. People*, G.R. No. 178757, March 13, 2009, 581 SCRA 388, 406.

[50] Supra note 29, at 221.

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