PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN AMANSEC Y DOÑA, ACCUSED-APPELLANT.

G.R. No. 186131. December 14, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

For review is the April 15, 2008 Decision[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 02557, which affirmed the Regional Trial Court's (RTC) August 30, 2006 Decision[2] in Criminal Case No. Q-03-118187,[3] wherein accused-appellant Benjamin Amansec y Dona (Amansec) was found guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165.

On June 18, 2003, Amansec was charged before the Quezon City RTC, Branch 95 of violation of Sections 11 and 5, Article II of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002. The pertinent portions of the Informations[4] are as follows:

Crim. Case No. Q-03-118186

> The undersigned accuses BENJAMIN AMANSEC Y DONA of violation of Section 11, Art. II, R.A. 9165 (Comprehensive Dangerous Drugs Act of 2002), committed as follows:
>
> That on or about the 15[th] day of June, 2003 in Quezon City, Philippines, the said accused, not being authorized by law to possess or use any dangerous drug, did and there willfully, unlawfully and knowingly have in his/her possession and control zero point zero nine (0.09) gram of white crystalline substance containing Methylamphetamine Hydroc[h]loride otherwise known as "SHABU" a dangerous drug.[5]
>
> Crim. Case No. Q-03-118187
>
> The undersigned accuses BENJAMIN AMANSEC Y DONA a.k.a. "Benjie" for violation of Section 5, Article II, R.A. 9165, Comprehensive Dangerous Drugs Act of 2002, committed as follows:
>
> That on or about the 15[th] day of June, 2003 in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there, willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point zero nine (0.09) gram of white crystalline substance containing Methylamphetamine Hydroc[h]loride otherwise known as "SHABU" a dangerous drug.[6]

Amansec pleaded not guilty to both charges upon his arraignment[7] on August 7, 2003. After the termination of the pre-trial conference[8] held on October 2, 2003, trial on the merits followed.

The prosecution's first witness was Engineer Bernardino M. Banac, Jr., a forensic chemist from the Philippine National Police (PNP) Crime Laboratory. However, upon agreement by the prosecution and the defense, his testimony was dispensed with, and in lieu thereof, the following stipulations and admissions were made by the parties:

- That on June 16, 2003, a request for laboratory examination was prepared and sent by La Loma Police Station 1 to the Central Police District Crime Laboratory together with the specimens which were received by the said office on June 16, 2003, as shown in the stamp marked received attached to the said request for laboratory examination;

- That upon receipt of the said request, a qualitative examination was conducted by the Central Police District Crime Laboratory Office, examined by Engr. Bernardino M. Banac, Jr. and that the specimens were found to be positive to the test for Methylamphetamine Hydrochloride, a dangerous drug which findings conducted contained in Chemistry Report No. D-472-03 dated June 16, 2003;

- That attached to said Chemistry Report is a small brown envelope which when opened by the Court Interpreter yielded three heat-sealed transparent plastic sachets containing white crystalline substance with markings : A (JR-BA)= 0.09 gram; B (RP-BA)= 0.09 gram; C (RV-JM)= 0.09 gram; [and]

- That the forensic chemical officer has no personal knowledge leading to the arrest of the accused as well as the source of specimens.[9]

On July 15, 2004, the RTC granted the prosecution's motion[10] to try the two cases jointly.

The prosecution's version, which was primarily lifted from the testimonies of two of the operatives involved in the buy-bust operation, is summarized below:

Police Officer (PO) 1 Alfredo Mabutol, Jr. and PO2 Ronald Pascua, members of the PNP assigned at Station Drug Enforcement Unit (SDEU) of the La Loma Police Station, testified that on June 15, 2003, at around 11:00 p.m., while they, along with PO1 Roderick Valencia and their Officer-in Charge (OIC), Police Inspector Oliver Villanueva were on duty, an informant, whose identity remained confidential, arrived at the station to talk to Villanueva. After talking to the informant, Villanueva formed a team for a buy-bust operation against Amansec, at Santos St., Barangay Damayan, San Francisco Del Monte, Quezon City. The team consisted of Mabutol as the poseur-buyer and Pascua and Valencia as his back-up members. Villanueva then gave Mabutol a one hundred peso (P100.00) bill to be used as his buy-bust money. Mabutol marked this with his initials "JR" on the lower left side portion and listed its serial number in his dispatch book. The team, with their informant, then proceeded to the target area using a white marked vehicle with red plate. As soon as they reached the place, Mabutol and the informant moved ahead to the house of Amansec at Santos St., corner Caragay St., while the rest of the team positioned themselves at a strategic location, keeping Amansec within viewing distance. The informant then introduced Mabutol to Amansec as a drug addict, in dire need of drugs. Mabutol had just told Amansec that he was going to purchase one hundred pesos worth of shabu when another buyer, later identified as Jerome Pintis, came up to Amansec to also buy shabu. Amansec then showed both Pintis and Mabutol three plastic sachets containing crystalline substance. Pintis gave a one hundred peso bill to Amansec who in return, let him pick one of the three plastic sachets. After Pintis left, Amansec continued his transaction with Mabutol, and gave Mabutol another of the remaining two plastic sachets after receiving the buy-bust money. Mabutol thereafter examined the plastic sachet he obtained from Amansec, and suspecting it to be shabu, scratched the right side of his head with his right hand to signal his team to approach the target. Valencia immediately arrested Pintis and recovered from the latter one plastic sachet, while Pascua went after Amansec, who, upon seeing Pintis' arrest, tried to run away. Pascua thereafter frisked Amansec and retrieved the buy-bust money that Mabutol had given Amansec, and another plastic sachet. The team then brought Pintis and Amansec to the Station Investigator. The team also marked with their initials the plastic sachets that they had recovered and turned them over to their Investigator. They later brought the plastic sachets to the Crime Laboratory to have their contents examined for the presence of shabu.[11]

The examination made by Engr. Banac on June 16, 2003, yielded the following results, as stated in his Chemistry

Report No. D-472-03[12]:

> TIME AND DATE RECEIVED: 1200H 16 JUNE 2003
>
> REQUESTING PARTY/UNIT: OIC, SDEU
>
> PS-1 CPD
> Laloma QC
>
> SPECIMEN SUBMITTED:
>
> Three (3) heat-sealed transparent plastic sachets containing white crystalline substance having the following markings and recorded net weights:
>
> A(JR-BA) = 0.09 gram C(RV-JM) = 0.09 gram
> B(RP-BA) = 0.09 gram
>
> x x x x
>
> PURPOSE OF LABORATORY EXAMINATION:
>
> To determine the presence of dangerous drugs. xxx
>
> FINDINGS:
>
> Qualitative examination conducted on the above-stated specimens gave POSITIVE results to the tests for Methylamphetamine hydrochloride, a dangerous drug. x x x.
>
> CONCLUSION:
>
> Specimens A, B, and C contain Methylamphetamine hydrochloride, a dangerous drug. x x x.
>
> TIME AND DATE COMPLETED: 1400H 16 JUNE 2003

This report, along with the three plastic sachets with white crystalline substance, and the P100.00 bill[13] recovered from Amansec, were presented in court, and, except for the plastic sachets, were submitted to the court as evidence.

The defense presented Amansec who vehemently denied, on the witness stand, the charges against him. He testified that on June 15, 2003, he was in his residence when two police officers, whom he later came to know as Mabutol and a certain PO1 Lozada, entered his room and thoroughly searched it. He was then brought to the precinct where he was instructed to call somebody who could help him settle his case. As he knew no one who could help him, Mabutol asked him to give a name of a big-time drug seller/pusher who could take his place, or "pamalit-ulo."[14] Since Amansec did not know any big-time drug pusher, reasoning that he had been in his residence for only six months then, the police officers proceeded with the case and he was brought to the Inquest Prosecutor. Amansec averred that he did not file a case against the police officers because he did not know how to go about it.[15] On cross-examination, he said that he was denying the allegations as the police officers had "no proof [of] what they [were] saying."[16] Amansec also stated that the first time he saw Mabutol and Pascua was when he was arrested, and he did not know of any grudge or ill motive that they might have against him.[17]

On August 30, 2006, the RTC rendered its Decision, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered finding accused BENJAMIN AMANSEC Y DONA GUILTY beyond reasonable doubt as charged in Criminal Case No. Q-03-118187 for violation of Section 5 of Article II of R.A. 9165, (selling of dangerous drugs) and he is hereby sentenced him (sic) to suffer the penalty of Life Imprisonment and to pay a fine of Five Hundred Thousand (Php500,000.00) pesos.

> However, in Criminal Case No. Q-03-118186 for violation of Section 11, Article II of R.A. 9165 (illegal possession of dangerous drugs), the Court finds the accused NOT GUILTY because the prosecution failed to prove his guilt beyond reasonable doubt.
>
> The pieces of evidence [that is the] subject matter of these cases are hereby forfeited in favor of the government and to be disposed of as provided by law.[18]

In convicting Amansec of violating Section 5, Article II of Republic Act No. 9165, the RTC held that the prosecution was able to establish and satisfy the elements in the sale of illegal drugs. The RTC averred that Amansec failed to prove any ill motive on the part of the police officers whom he admitted to have met only after his arrest. Moreover, the RTC found the testimonies of Mabutol and Pascua to be consistent, clear, direct, positive, and corroborative of the material and significant aspects of what actually transpired.[19]

However, the RTC acquitted Amansec of the illegal possession of dangerous drugs charge, ratiocinating in this wise:

> Anent the second offense, the public prosecutor was able to prove that indeed the accused was caught in possession of illegal drugs known as "shabu" after the entrapment. After the arrest of the accused for selling illegal drugs, PO2 Ronald Pascua was able to recover another plastic sachet containing shabu from the accused. However, the Court is convinced that the second plastic sachet containing shabu (Exhibit "E-2") was intended by the accused to be sold to the buyer at the time of the buy-bust operation. In People vs. Hindoy [357 SCRA 692], possession of marijuana is absorbed in the sale thereof, except where the seller is further apprehended in possession of another quantity of the prohibited drugs not covered by or included in the sale and which are probably intended for some future dealings or use by the seller. In the case at bar, it is clear from the testimonies of the prosecution witnesses that the second plastic sachet of shabu was shown and offered by the accused during the transaction in the buy-bust operation.[20]

On September 11, 2006, Amansec filed his Notice of Appeal with the RTC. In his Brief, [21] Amansec cited irregularities, which allegedly create a reasonable doubt that a buy-bust operation was conducted. He also questioned the admissibility of the evidence against him.

However, the Court of Appeals was not convinced by Amansec's arguments. The Court of Appeals found the prosecution's evidence to be sufficient to uphold the conviction of Amansec.[22] The Court of Appeals held that "[n]on-compliance by the apprehending officer with Section 21 of [Republic Act] No. 9165 is not fatal as long as there is justifiable ground therefor, and as long as the integrity and the evidentiary value of the confiscated items, are properly preserved by the apprehending officers. x x x."[23]

On April 15, 2008, the Court of Appeals rendered its Decision, with the following fallo:

> WHEREFORE, in view of the foregoing, the assailed decision dated August 30, 2006 of the Regional Trial Court (RTC) of Quezon City, Branch 95, in Criminal Case No. Q-03-118187 convicting accused-appellant BENJAMIN AMANSEC Y DONA for violation of Section 5, Article II of R.A. No. 9165, sentencing him to suffer the penalty of Life Imprisonment, and ordering him to pay a fine of Five Hundred Thousand Pesos (Php500,000.00), is hereby AFFIRMED.[24]

Aggrieved, Amansec appealed[25] the above ruling to this Court, assigning the same errors he assigned before the Court of Appeals, to wit:

> ASSIGNMENT OF ERRORS
>
> I
> THE TRIAL COURT GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE

TESTIMONIES OF THE PROSECUTION WITNESSES DESPITE ITS APPARENT UNREALITY AS TO HOW THE ALLEGED BUY-BUST OPERATION WAS CONDUCTED.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF SELLING ILLEGAL DRUGS DESPITE THE INADMISSIBILITY OF THE EVIDENCE AGAINST HIM FOR HAVING BEEN OBTAINED IN VIOLATION OF SECTION 21 OF REPUBLIC ACT NO. 9165.

III

THE TRIAL COURT SERIOUSLY ERRED IN HOLDING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT NOTWITHSTANDING THE PROSECUTION'S FAILURE TO ESTABLISH THE CHAIN OF CUSTODY OF THE SPECIMENS.[26]

The Ruling of this Court

Amansec was charged and convicted for selling methylamphetamine hydrochloride, more popularly known as shabu, in violation of Section 5, Article II of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002, which provides:

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.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) 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 controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

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Credibility of the Prosecution Witnesses
and conduct of the buy-bust operation

Amansec argues that the trial court erred in giving credence to the testimonies of the prosecution witnesses as they failed to pass the test in determining the value of a witness's testimony that such must be "in conformity with knowledge and consistent with the experience of mankind."[27]

Amasec claims that the charges against him were merely planted and enumerates the following as evidence, which supposedly "creates reasonable doubt as to the allegation of the prosecution that a buy-bust operation was conducted"[28]:

- Only Amansec was charged with violating Republic Act No. 9165, and not Pintis, whom the police officers alleged to have bought shabu from him, while the buy-bust operation was being conducted.

- The prosecution failed to produce and present in court the ?100.00 bill Pintis allegedly used to buy shabu from Amansec.

- The informant was not presented in court, and no explanation was given by the prosecution for their failure to do so.

- There was no surveillance prior to the buy-bust operation conducted by the police officers.

- The buy-bust money used by Mabutol was not dusted with ultraviolet powder.

Amansec's arguments are untenable. As we have held before, "[i]t is for the party to plan its own strategy and to choose which witnesses to call and what evidence to submit to support its own cause."[29]

Non-inclusion of Pintis in this case and
Non-presentation of Pintis' P100.00 bill
Recovered from Amansec

It is not within the province of this Court to speculate or make presumptions as to what happened to Pintis after he was arrested. Suffice it to say that he was apprehended for not only a different, but also, a separate illegal act. He was caught in flagrante delicto of purchasing shabu from Amansec, and when he was caught, a plastic sachet, similar to the ones sold to Mabutol and recovered from Amansec, was found in his possession. Since this had nothing to do with Amansec's own acts, this Court sees no reason why they should have been tried jointly.

Anent the P100.00 bill Pintis used to buy shabu from Amansec, this Court also sees no need for its presentation before the RTC because Amansec was charged with violation of Section 5, or the illegal sale of dangerous drugs, for selling shabu to Mabutol, and not to Pintis. Thus, even if Pintis' P100.00 peso bill were presented in court, it would serve very little purpose for the prosecution, and even for the RTC, as, to reiterate, Amansec was on trial for his act of selling dangerous drugs to Mabutol, who was then a poseur-buyer, and not to Pintis, who just happened to buy from him while the buy-bust operation was being conducted.

Non-Presentation of Informant

This point need not be belabored as this Court, has time and again, held that "the presentation of an informant in an illegal drugs case is not essential for the conviction nor is it indispensable for a successful prosecution because his testimony would be merely corroborative and cumulative."[30] If Amansec felt that the prosecution did not present the informant because he would testify against it, then Amansec himself should have called him to the stand to testify for the defense.[31] The informant's testimony is not needed if the sale of the illegal drug has been adequately proven by the prosecution.[32] In People v. Ho Chua,[33] we said:

> The presentation of an informant is not a requisite in the prosecution of drug cases. In People v. Nicolas, the Court ruled that "[p]olice authorities rarely, if ever, remove the cloak of confidentiality with which they surround their poseur-buyers and informers since their usefulness will be over the moment they are presented in court. Moreover, drug dealers do not look kindly upon squealers and informants. It is understandable why, as much as permitted, their identities are kept secret." In any event, the testimony of the informant would be merely corroborative.[34]

No prior surveillance conducted

This issue in the prosecution of illegal drugs cases, again, has long been settled by this Court. We have been consistent in our ruling that prior surveillance is not required for a valid buy-bust operation, especially if the buy-bust team is accompanied to the target area by their informant.[35] In People v. Eugenio,[36] we held:

> There is no requirement that prior surveillance should be conducted before a buy-bust operation can be undertaken especially when, as in this case, the policemen are accompanied to the scene by their civilian informant. Prior surveillance is not a prerequisite for the validity of an entrapment or a buy-bust operation, there being no fixed or textbook method for conducting one. We have held that when time is of [the] essence, the police may dispense with the need for prior surveillance.[37]

Buy-bust money was not
dusted with ultraviolet powder

The failure of the police officers to use ultraviolet powder on the buy-bust money is not an indication that the buy-bust operation was a sham. "The use of initials to mark the money used in [a] buy-bust operation has been accepted by this Court."[38] In People v. Rivera,[39] we declared:

> It was x x x the prerogative of the prosecution to choose the manner of marking the money to be used in the buy-bust operation, and the fact that it was not dusted with fluorescent powder did not render the exhibit inadmissible. Indeed, the use of initials to mark the money used in the buy-bust operation has been accepted by this Court in numerous cases.[40]

Inventory and Chain of Custody of Evidence

Amansec asserts that his conviction was incorrect because the evidence against him was obtained in violation of the procedure outlined in Republic Act No. 9165. He claims that Section 21 of the aforesaid act was violated when the police officers who arrested him did not take his picture with the shabu they confiscated from him, and when they made no physical inventory of the shabu in his presence, or in the presence of his representative, the media, the department of justice, or any elected public official. Amansec avers that his presumption of innocence prevails over the presumption that the police officers performed their duty in a regular manner.[41]

He also avers that the prosecution failed to prove the chain of custody of the evidence obtained from him as the station investigator, to whom the specimens were turned over, was not presented in court. Moreover, Amansec claims, there was no evidence to show that the forensic chemist examined the same articles allegedly confiscated from him. Amansec says that the stipulations made as regards the testimony of the forensic chemist mentioned nothing about the chemist's actual receipt of the specimens from the Investigator or from any other person. Amansec argues that the prosecution's failure to establish the evidence's chain of custody is fatal and leads to the unavoidable suspicion on its integrity.[42]

Section 21 of Republic Act No. 9165, provide as follows:

> Section 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. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: Provided, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

(4) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of 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 DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: Provided, That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: Provided, further, That a representative sample, duly weighed and recorded is retained;

(5) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to the court having jurisdiction over the case. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;

(6) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;

(7) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same; and

(8) Transitory Provision: a) Within twenty-four (24) hours from the effectivity of this Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies shall, with leave of court, be

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> burned or destroyed, in the presence of representatives of the Court, DOJ, Department of Health (DOH) and the accused/and or his/her counsel, and, b) Pending the organization of the PDEA, the custody, disposition, and burning or destruction of seized/surrendered dangerous drugs provided under this Section shall be implemented by the DOH.

Its Implementing Rules and Regulations state:

> SECTION 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. — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:
>
> (a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items;
>
> (b) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;
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> (c) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: Provided, that when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, that a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;
>
> (d) After the filing of the criminal case, the court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall, within twenty-four (24) hours thereafter, proceed with the destruction or burning of 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 DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: Provided, that those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: Provided, further, that a representative sample, duly weighed and recorded is retained;
>
> (e) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to the court having jurisdiction over the case. In cases of seizures where no person is apprehended and no criminal case is filed, the PDEA may order the immediate destruction or burning of seized dangerous drugs and controlled

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> precursors and essential chemicals under guidelines set by the Board. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;
>
> (f) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;
>
> (g) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same; and
>
> (h) Transitory Provision:
>
> h.1) Within twenty-four (24) hours from the effectivity of the Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies shall, with leave of court, be burned or destroyed, in the presence of representatives of the court, DOJ, Department of Health (DOH) and the accused and/or his/her counsel; and
>
> h.2) Pending the organization of the PDEA, the custody, disposition, and burning or destruction of seized/surrendered dangerous drugs provided under this Section shall be implemented by the DOH.
>
> In the meantime that the PDEA has no forensic laboratories and/or evidence rooms, as well as the necessary personnel of its own in any area of its jurisdiction, the existing National Bureau of Investigation (NBI) and Philippine National Police (PNP) forensic laboratories shall continue to examine or conduct screening and confirmatory test on the seized/surrendered evidence whether these be dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments, paraphernalia and/or laboratory equipment; and the NBI and the PNP shall continue to have custody of such evidence for use in court and until disposed of, burned or destroyed in accordance with the foregoing rules: Provided, that pending appointment/designation of the full complement of the representatives from the media, DOJ, or elected public official, the inventory of the said evidence shall continue to be conducted by the arresting NBI and PNP operatives under their existing procedures unless otherwise directed in writing by the DOH or PDEA, as the case may be. (Emphasis supplied)

Ideally, the procedure on the chain of custody should be perfect and unbroken. However "a testimony about a perfect chain is not always the standard as it is almost always impossible to obtain an unbroken chain."[43] Thus, even though the prosecution failed to submit in evidence the physical inventory and photograph of the seized drugs as required under Section 21 of Republic Act No. 9165, this will not render Amansec's arrest illegal or the items seized from him as inadmissible in evidence.[44] This Court has consistently held that "what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, because the same will be utilized in ascertaining the guilt or innocence of the accused."[45]

The prosecution was able to demonstrate that the integrity and evidentiary value of the evidence seized had been preserved. Both the prosecution witnesses were categorical and consistent that Amansec offered three plastic sachets containing shabu to Mabutol and Pintis. These were later recovered from Amansec, Pintis, and Mabutol himself. As soon as the police officers, together with Amansec and Pintis, reached the La Loma Police Station, the seized sachets were marked with the initials of the police officers, with each officer marking the sachet he personally retrieved from the suspects. This was done before the specimens were turned over to the station investigator for the preparation of the request for laboratory examination. Thereafter, the specimens were forwarded to the crime lab by the police officers themselves.[46] The Chemistry Report prepared by the forensic

chemist listed the same specimens, which bore the initials of the police officers, and which were later identified by Mabutol and Pascua in open court as the plastic sachets they marked with their initials.

Besides, the presumption that the integrity of the evidence has been preserved will remain unless it can be shown that there was bad faith, ill will, or tampering of the evidence. Amansec bears the burden of showing the foregoing to overcome the presumption that the police officers handled the seized drugs with regularity, and that they properly discharged their duties.[47] This, Amansec failed to do.

Furthermore, there is nothing in Republic Act No. 9165 or in its implementing rules, which requires each and everyone who came into contact with the seized drugs to testify in court. "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."[48] This Court, in People v. Hernandez,[49] citing People v. Zeng Hua Dian,[50] 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.[51]

It is worthy to note, and we agree with the Court of Appeals' observation, that Amansec questioned the chain of custody of the evidence only when he appealed his conviction. Not once did he raise this defense or mention these procedural gaps before the trial court. Thus, whatever justifiable ground the prosecution has will remain a mystery in light of Amansec's failure to raise this issue before the trial court, viz:

> 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.[52]

Amansec's theory, from the very beginning, were that he did not do it, and that he was being framed for his failure to give the police officers either money or some big-time pusher to take his place. In other words, his defense tactic was one of denial and frame-up. However, those defenses have always been frowned upon by the Court, to wit:

> The defenses of denial and frame-up have 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 Dangerous Drugs Act. In order to prosper, the defenses of denial and frame-up must be proved with strong and convincing evidence. In the cases before us, appellant failed to present sufficient evidence in support of his claims. Aside from his self-serving assertions, no plausible proof was presented to bolster his allegations.[53]

Equally important is the fact that Amansec has not ascribed any improper motive on the part of the police officers as to why they would hand-pick him, and falsely incriminate him in such a serious crime. No evidence has been offered to show that Mabutol and Pascua, were motivated by reasons other than their duty to curb the sale of prohibited drugs.[54] Amansec himself admitted that he only came to know his arresting officers after his arrest.

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He also testified that he knew of no grudge that they might have against him. Hence, until Amansec can show clear and convincing evidence that the members of the entrapment operation team were stirred by illicit motive or failed to properly perform their duties, their testimonies deserve full faith and credit. [55]

Elements of illegal sale of
dangerous drugs established
The successful prosecution of the sale of dangerous drugs case depends on the satisfaction of 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. [56]

To elucidate on the foregoing elements, this Court has said that "[i]n 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."[57]

It is evident in the case at bar that the prosecution was able to establish the said elements.[58]

Amansec was positively identified by the prosecution witnesses, as the person who sold to the poseur-buyer a heat-sealed plastic sachet containing white crystalline substance. He had been caught red-handed in the entrapment operation conducted by the SDEU of the La Loma Police. Such positive identification must prevail over Amansec's uncorroborated and weak defense of denial, and unsubstantiated defense of frame-up.[59]

The corpus delicti of the crime was also established with certainty and conclusiveness. Amansec gave one of the two remaining plastic sachets to Mabutol after receiving the P100.00 buy-bust money.[60] In People v. Legaspi,[61] we said:

> The delivery of the contraband to the poseur-buyer and the receipt by the seller of the marked money successfully consummated the buy-bust transaction between the entrapping officers and Legaspi.

This Court therefore finds no error on the part of both the RTC and the Court of Appeals in convicting Amansec for violation of Section 5, Article II of Republic Act No. 9165.

WHEREFORE, premises considered, the Court hereby AFFIRMS the April 15, 2008 Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 02557.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

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[1] Rollo, pp. 2-14; penned by Associate Justice Rosalinda Asuncion-Vicente with Associate Justices Remedios A. Salazar-Fernando and Sesinando E.Villon, concurring.

[2] CA rollo, pp. 71-78; penned by Judge Henri Jean-Paul B. Inting.

[3] This case was consolidated with Criminal Case No. Q-03-118186. However, this was no longer appealed by Benjamin Amansec as he was acquitted therein by the RTC.

[4] Records, pp. 2-3, 3-4.

[5] Id. at 2.

[6] Id. at 4.

[7] Id. at 20.

[8] Id. at 24-25.

[9] Id. at 34-35.

[10] TSN, July 15, 2004, p. 2.

[11] Id. at 3-15; TSN, August 12, 2005, pp. 4-16.

[12] Folder of Evidence for the Prosecution; records, p. 114.

[13] Id. at 117.

[14] TSN, July 5, 2005, p. 12.

[15] Id. at 5-14.

[16] TSN, September 27, 2005, p. 2.

[17] Id. at 2-3.

[18] CA rollo, p. 78.

[19] Id. at 76-78.

[20] Id. at 77.

[21] Id. at 51-70.

[22] Rollo, p. 9.

[23] Id. at 10.

[24] Id. at 13.

[25] CA rollo, pp. 131-132.

[26] Id. at 53-54.

[27] Id. at 58.

[28] Id. at 63.

[29] People v. Rivera, G.R. No. 98123, October 1, 1993, 227 SCRA 35, 40.

[30] People v. Khor, 366 Phil. 762, 792 (1999).

[31] People v. Rivera, supra note 29 at 40.

[32] People v. Cercado, 434 Phil. 492, 500 (2002).

[33] 364 Phil. 497 (1999)

[34] Id. at 513-514.

[35] People v. Lacbanes, 336 Phil. 933, 941 (1997).

[36] 443 Phil. 411 (2003).

[37] Id. at 422-423.

[38] People v. Zheng Bai Hui, 393 Phil. 68, 135 (2000).

[39] Supra note 29.

[40] Id. at 40.

[41] CA rollo, pp. 64-66.

[42] Id. at 67-68.

[43] Asiatico v. People, G.R No. 195005, September 12, 2011.

[44] People v. Concepcion, G.R. No. 178876, June 27, 2008, 556 SCRA 421, 436.

[45] People v. Campomanes, G.R. No. 187741, August 9, 2010, 627 SCRA 494, 507.

[46] TSN, July 15, 2004, p. 13.

[47] People v. Hernandez, G.R. No. 184804, June 18, 2009, 589 SCRA 625, 647.

[48] Id.

[49] Id.

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

[51] People v. Hernandez, supra note 47 at 647-648.

[52] People v. Sta. Maria, G.R. No. 171019, February 23, 2007, 516 SCRA 621, 633-634.

[53] People v. Lazaro, Jr., G.R. No. 186418, October 16, 2009, 604 SCRA 250, 269.

[54] People v. Lee, 407 Phil. 250, 260 (2001).

[55] People v. Valencia, 439 Phil. 561, 568 (2002).

[56] People v. Tiu, 469 Phil. 163, 173 (2004).

[57] People v. Lazaro, Jr., supra note 53 at 264.

[58] Id.

[59] People v. Legaspi, G.R. No. 173485, November 23, 2011.

[60] Id.

[61] Id.

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