

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALIODING SULTAN, ACCUSED-APPELLANT.

G.R. No. 187737. July 05, 2010

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

Assailed before this Honorable Court is the October 17, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02646. The CA affirmed the August 28, 2006 Decision[2] of the Regional Trial Court (RTC) of Laoag City, Branch 13 finding appellant Alioding Sultan guilty beyond reasonable doubt of violation of Section 5,[3] Article II of Republic Act No. 9165[4] or the "Comprehensive Dangerous Drugs Act of 2002."

The prosecution charged appellant with violation of Section 5, Article II of Rep. Act No. 9165 in two (2) Informations which read:

Criminal Case No. 11867 for illegal delivery of shabu

That on or about the 19[th] day of August 2005 in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the herein accused, did then and there wilfully, unlawfully and feloniously give away and deliver to a police officer who acted as a poseur buyer one plastic bag containing metamphetamine hydrochloride (popularly known as shabu) a dangerous drug with a weight of .1211 gram. without any license or authority, in violation of the aforecited law.

CONTRARY TO LAW.[5]

Criminal Case No. 11868 for illegal sale of shabu

That on or about the 19[th] day of August 2005 in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the herein accused, did then and there wilfully, unlawfully and feloniously sell and deliver to a police officer who acted as a poseur buyer two plastic bags containing metamphetamine hydrochloride (popularly known as shabu) a dangerous drug with a weight of .4931 grams and 0.5334 grams respectively without any license or authority, in violation of the aforecited law.

CONTRARY TO LAW.[6]

Upon arraignment on August 25, 2005, the appellant, assisted by counsel de parte, pleaded not guilty to both charges.[7] Thereafter, trial ensued.

The prosecution evidence established the following facts:

At around noon of August 19, 2005, SPO3 Rovimmanuel Balolong, Chief, Intelligence Division of the Laoag City Police Station, was in his house with two (2) colleagues, SPO3 Allan Tunac and PO2 Sherwin Cabigas. While about to have lunch, SPO3 Balolong received a call in his cellular phone from a female police informant telling him that a certain "Dax" was selling shabu at his residence at Brgy. 1, Muslim Compound, Laoag City, and that she could access shabu from him. SPO3 Balolong advised the informant to see him at his residence to discuss the

information further. When the informant arrived, SPO3 Balolong, together with SPO3 Tunac and PO2 Cabigas, conducted a briefing with the informant and not long after, devised a buy-bust plan to catch the appellant in flagrante delicto. SPO3 Balolong produced four (4) pieces of 500-peso bills[8] and marked them with his initials on the lower right hand corner of the face of the bills. He then handed the marked bills to PO2 Cabigas to use in the operation.[9] Then they proceeded as planned.

PO2 Cabigas, who was the poseur-buyer, went with the informant and took a tricycle to the Muslim Compound where the appellant's residence was located. Upon reaching an abandoned school located near the compound, PO2 Cabigas and the informant alighted from the tricycle and proceeded on foot to the appellant's residence. However, even before reaching the said residence, the informant spotted the appellant walking towards them at a distance of around fifteen (15) meters. She discreetly informed PO2 Cabigas that the person in yellow was the person they were after. PO2 Cabigas and the informant met with the appellant and received two (2) plastic sachets of shabu[10] in exchange for P2,000 and a smaller sachet of shabu as "bonus."[11]

Upon receiving the three (3) sachets of shabu from the appellant, PO2 Cabigas inserted them in his right side pocket and simultaneously pressed the "call button" on his cellular phone inside his pocket. This raised the signal to SPO3 Balolong and SPO3 Tunac, who were waiting nearby inside their vehicle, that the illegal sale of shabu has been consummated and for them to assist PO2 Cabigas in arresting the appellant. After pressing the call button, PO2 Cabigas held the appellant's arm and informed him that he was a police officer and that he was arresting him for violation of Rep. Act No. 9165. According to PO2 Cabigas, "[the appellant] put up a strong resistance." [12] Around fifteen (15) seconds after the signal was sent, SPO3 Balolong and Tunac arrived at the scene. They saw PO2 Cabigas and the appellant grappling and immediately assisted PO2 Cabigas in arresting the appellant.

After the arrest, SPO3 Balolong confiscated the buy-bust money from the appellant's wallet and asked him whether he had authority to sell shabu, to which the appellant could not present any. The police officers then brought the appellant to the Laoag City Police Station together with the confiscated shabu and buy-bust money and turned over the evidence to the evidence custodian, SPO2 Loreto Ancheta, who marked[13] the items appropriately. Thereafter they filed the appropriate charges.[14]

On the other hand, the evidence of the appellant is basically a denial of all the allegations. According to the defense, that morning at around 11:00 a.m., Chona Martin was then at their store located in Brgy. 11, Lagasca Street, Laoag City. Later on, Ariel Palaganas, who was her neighbor, gave her P1,000 and sent her to the Muslim Compound to buy shabu. He did not tell her from whom to buy but she was nonetheless able to buy the shabu. She handed the shabu to Ariel Palaganas and then proceeded to Vintar Road on a tricycle as she was headed for the town of Vintar. While on the tricycle, she was flagged down by three (3) men who were riding in a red car. The men were identified as SPO3 Balolong, SPO3 Tunac and PO2 Cabigas. According to her, she was frisked by the policemen and they found one (1) sachet of shabu. They told her to come with them to a carinderia which was owned by SPO3 Balolong and there she was interrogated as to where and from whom she got the shabu. She merely told them that she got it from a small child in the Muslim Compound. Unsatisfied, the policemen brought her along to the Muslim Compound and made her search for the small child who delivered the shabu to her. Being unable to spot the child, she pointed to a man who was walking and whom she identified in open court as the appellant Alioding Sultan.[15]

The appellant, for his part, testified that on that day, he was walking on the street beside the house of his siblings as he was looking for his children when suddenly he was arrested. He asked why he was being arrested and the police responded by saying that he should come with them peacefully if he did not want to get harmed. He was brought to the headquarters where the policemen took off his clothes and kept telling him to just bring "it" out.

He, however, did not know what it was that they wanted him to bring out. This went on for around fifteen (15) minutes but still the police did not find anything on him.[16]

After trial, the RTC of Laoag City, Branch 13, gave credence to the testimonies and evidence presented by the prosecution and found the appellant guilty beyond reasonable doubt of the offense charged. The dispositive portion of the Decision dated August 28, 2006 reads:

WHEREFORE, the Court hereby renders judgment finding the accused Alioding Sultan GUILTY beyond reasonable doubt as charged of illegal sale and delivery of shabu in Criminal Case No. 11868 and is therefore sentenced to suffer the penalty of life imprisonment and to pay a fine of P2,000,000.00, with no costs.

For lack of factual basis, the accused is found NOT GUILTY and is therefore ACQUITTED of the separate case of illegal delivery of shabu as charged in Criminal Case No. 11867.

The shabu subject of these cases are forfeited, the same to be disposed of as the law prescribes.

SO ORDERED.[17]

On appeal, the CA affirmed the RTC in its October 17, 2008 Decision stating that:

It is settled rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary suggesting ill motive on the part of the police officers or deviation from the regular performance of their duties. Prescinding from the foregoing, this Court is convinced that the guilt of appellant has been sufficiently proven beyond reasonable doubt by the evidence on record.

The sale of shabu is penalized under Section 5, Article II of Republic Act No. 9165. Said section reads:

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

Hence, the penalty of life imprisonment and a fine of P2,000,000.00 were properly imposed on the appellant.

WHEREFORE, premises considered, the instant appeal is DISMISSED.

SO ORDERED.[18]

Hence, this appeal.

The main issue in this case is whether or not the appellant is guilty beyond reasonable doubt for violation of Section 5, Article II of Rep. Act No. 9165 for selling and delivering 0.4931 grams and 0.5334 grams of shabu, respectively.

The appellant contends that the prosecution failed to prove the corpus delicti. According to him, there was no showing of any attempt or effort by the arresting officers to comply with the requirements of Section 21 of Rep. Act No. 9165 and the prosecution failed to present evidence on post-examination custody as the chemist who examined the specimens did not testify in open court. Hence, there is doubt as to the identity of the specimen submitted in court.

The State, for its part, through the Solicitor General maintains that the prosecution sufficiently established the

unbroken chain of custody of the seized drugs and that the trial court correctly gave credence to the prosecution witnesses' testimonies as against those of the defense.

We affirm the appellant's conviction.

Section 21 of Rep. Act No. 9165 was originally envisioned by the legislature to serve as a protection for the accused from malicious imputations of guilt by abusive police officers. The illegal drugs being the corpus delicti, it is essential for the prosecution to prove and show to the court beyond reasonable doubt that the illegal drugs presented to the trial court as evidence of the crime are indeed the illegal drugs seized from the accused.

Section 21, paragraph No. 1, prescribes the method by which law enforcement agents/personnel are to go about in handling the corpus delicti at the time of seizure in order to ensure full protection to the accused. It reads:

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. - 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;

x x x x

However, Section 21 was not meant to thwart the legitimate efforts of law enforcement agents. Slight infractions or nominal deviations by the police from the prescribed method of handling the corpus delicti should not exculpate an otherwise guilty defendant.[19] In fact, the Implementing Rules and Regulations of Rep. Act No. 9165 adequately reflects the desire of the law to excuse from the rigid tenor of Section 21 situations wherein slight infractions in methodology are present but the integrity and identity of the specimen remains intact. It reads:

Section 21. x x x

(a) xxx 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;

In the case at bar, the failure of the apprehending officer to "immediately after seizure and confiscation, physically inventory and photograph the [prohibited drugs] in the presence of the accused" as required by Section 21 can be considered as a slight infraction that does not automatically render the seized items inadmissible. There is a justifiable reason for such failure in this case as was explained by SPO3 Balolong during his cross-examination. To wit:

[ATTY. CARIDAD:] Now, while you were still there and you said the accused resisted, is it not a fact that the sisters of the accused tried to pull the accused because they insisted that the accused was not selling shabu, yes or no?

[WITNESS:] I do not know any sister of the accused, sir.

[ATTY. CARIDAD:] There were women who tried to pull the accused from the hold of Cabigas and the police

officers who were with Cabigas because they insisted that the accused was not selling shabu at that time when he was arrested?

[WITNESS:] No, sir, they were interfering with our job, sir.

[ATTY CARIDAD:] Interfering you said, what do you mean by interfering? What did they do by way of interfering?

[WITNESS:] They tried to stop us by pulling, grabbing and pushing us from arresting Alioding Sultan, sir.[20]

x x x x

[ATTY CARIDAD:] He never made any inventory of those sachets in that place where the same were confiscated?

[WITNESS:] We could not, sir.

[ATTY CARIDAD:] The answer is yes or no.

[WITNESS:] No, sir.

[ATTY CARIDAD:] Also you did not mark except the markings that you made before the alleged buy-bust operation was conducted, after confiscating the same from the possession of the accused, you never marked the same?

[WITNESS:] If you mean the money, sir, no, sir.

[ATTY CARIDAD:] So it is very clear now, Mr. Witness, that you never made an inventory in the place where the arrest was made by placing or wrote in the very place the three (3) sachets in that inventory together the money, alleged money that was used in the buy-bust operation, is that it?

[WITNESS:] We could not, sir.

[ATTY CARIDAD:] Now, no pictures were taken on those articles that were confiscated as well as the buy-bust money allegedly used in that buy-bust operation, is it not, there were none?

[WITNESS:] The investigators, I do not know if the investigators took pictures, sir.

[ATTY CARIDAD:] Took pictures, where are those pictures now, Mr. Witness, if you say that the investigators took pictures of those evidences?

[WITNESS:] No. I said I am not sure if the investigators took pictures, sir.

[ATTY CARIDAD:] I see. But you are very sure that no pictures were taken at the place where the confiscation was made, is it not?

[WITNESS:] It is impossible, sir.[21]

It was the difficulty, if not the impossibility, of strictly complying with Section 21 of Rep. Act No. 9165 during the actual apprehension and arrest which justifies the slight deviation by the arresting officers from the rule. The strong resistance of the appellant to the arrest and the interference of several persons made it imperative upon the apprehending police officers to withdraw from the place immediately. Consequently, the confiscated items were marked only upon turn over to the evidence custodian.

But were the integrity and evidentiary value of the confiscated drugs preserved despite the justified infraction of Section 21? We rule in the affirmative.

For the successful prosecution of the illegal sale of shabu, the following 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 its payment. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti evidence. All these requisites were met by the prosecution in this case.

The chain of custody in the instant case did not suffer from serious flaws as appellant argues. The identity of the regulated drug, as well as the buy-bust money, has been proven beyond reasonable doubt by the prosecution. The prosecution was able to establish the chain of custody in the presentation of the evidence custodian whose testimony was dispensed with upon the admission of the defense that he made the identifying markings on the "items confiscated from the possession of the [appellant]" and personally submitted them to the Ilocos Norte Provincial Crime Laboratory Office at Camp Juan, Laoag City.[22] They were received on August 19, 2005 at 1415H by PO3 Silverio Abrera from SPO2 Ancheta himself, as evidenced by the rubber stamp[23] at the bottom of the endorsement letter[24] which bore SPO2 Ancheta's signature on the space after "Delivered by." Upon receiving the sachets containing the illegal drugs, PO3 Abrera recorded the letter request and the specimens, after which he immediately endorsed them to Police Inspector Valeriano Laya II, the Forensic Chemical Officer who, as also admitted by the defense,[25] marked them upon receipt and on the same day, examined the specimens and found the contents thereof to be positive for methamphetamine hydrochloride as shown by his Initial Laboratory Report[26] and confirmatory Chemistry Report No. D-059-2005.[27]

The prosecution witnesses were further able to present and identify in court the confiscated items and the marked money. PO2 Cabigas identified in open court the three (3) sachets that the appellant gave in the course of the illicit sale transaction. In particular, he pointed to the smallest plastic sachet[28] as the plastic sachet that the appellant gave away as bonus while the two (2) other sachets bigger in size[29] were the ones that the appellant sold, pointing in the process the markings that SPO2 Ancheta made in his presence, specifically, the initial signature of SPO2 Ancheta, the letters "LCPS" which is the acronym for the Laoag City Police Station, the initials "AS" of the appellant and the letters "BB" which stand for "buy bust." [30] He also identified the marked money, the serial numbers of which were placed in the police blotter after the operation. Further, SPO3 Balolong who was also present and looking when the markings were made by the evidence custodian, made a similar identification.[31] He also identified the four (4) P500 bills buy-bust money that he marked before the operation with his initials. The trial court observed that the bills presented in court had the same serial numbers as those mentioned in the Joint Affidavit[32] of the arresting police officers. Thus, it is clear that the integrity and evidentiary value of the seized drugs were not affected by the failure to comply strictly with Section 21. There is no doubt in our minds that the seized drugs obtained from the appellant at the Muslim Compound in Barangay 1, Laoag City, were the same ones which were brought to the crime laboratory and analyzed as positive for shabu.

The non-presentation of the chemist who tested the illegal drugs, contrary to appellant's contentions, is insufficient to acquit him. As we ruled in *People v. Zenaida Quebral Mateo, et al.*, [33] which dealt with a similar issue,

The accused-appellants also point out that, since the chemist who examined the seized substance did not testify in court, the prosecution was unable to establish the indispensable element of corpus delicti. But this claim is unmeritorious. This Court has held that the non-presentation of the forensic chemist in illegal drug cases is an insufficient cause for acquittal. The corpus delicti in dangerous drugs cases constitutes the dangerous drug itself. This means that proof beyond doubt of the identity of the prohibited drug is essential.

Besides, corpus delicti has nothing to do with the testimony of the laboratory analyst. In fact, this Court has ruled that the report of an official forensic chemist regarding a recovered prohibited drug enjoys the presumption of regularity in its preparation. Corollarily, under Section 44 of Rule 130, Revised Rules of Court, entries in official records made in the performance of official duty are prima facie evidence of the facts they

state. Therefore, the report of Forensic Chemical Officer Sta. Maria that the five plastic sachets PO3 Galvez gave to her for examination contained shabu is conclusive in the absence of evidence proving the contrary. At any rate, as the CA pointed out, the defense agreed during trial to dispense with the testimony of the chemist and stipulated on his findings.

Notably, similar to the above-cited case, the parties in this case also stipulated on the content of the would-be testimony of the chemist.[34]

Also undeserving of serious consideration is appellant's defense that there was no buy-bust operation. The trial court found undeserving of credence appellant's self-serving testimony and defense witness Chona Martin's assertion that it was merely by chance that she saw appellant and pointed him to the police officers as the person peddling illegal drugs. The trial court, in fact, branded Chona Martin's testimony as obviously fabricated.[35] It is a fundamental rule that findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors, gross misapprehension of facts and speculative, arbitrary and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial.[36] The rule finds an even more stringent application where said findings are sustained by the CA.[37] As there appears no cogent reason to depart from the findings of the trial court and the CA, we stand by their findings.

Having been caught *in flagrante delicto*, the appellant's identity as seller of the shabu can no longer be doubted. Against the positive testimonies of the prosecution witnesses, appellant's plain denial of the offenses charged, unsubstantiated by any credible and convincing evidence, must simply fail.[38] Moreover, there is no showing that the prosecution witnesses were impelled by ill motives to testify falsely against the appellant. As appellant himself has testified, he has never met the police officers prior to the arrest.[39]

WHEREFORE, the Court DENIES the appeal and AFFIRMS the October 17, 2008 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02646 which affirmed the August 28, 2006 Decision of the Regional Trial Court of Laoag City.

Costs against the accused-appellant.

SO ORDERED.

Carpio Morales (Chairperson), Brion, Bersamin, and Abad,[*] JJ., concur.

[*] Additional member per Special Order No. 843.

[1] Rollo, pp. 2-14. Penned by Associate Justice Romeo F. Barza, with Associate Justices Mariano C. Del Castillo (now a member of this Court) and Arcangelita M. Romilla-Lontok concurring.

[2] CA rollo, pp. 37-48. Penned by Judge Philip G. Salvador.

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

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.

[4] AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

[5] Records (Criminal Case No. 11867), p. 1.

[6] Records (Criminal Case No. 11868), p. 1.

[7] Records (Criminal Case No. 11867), p. 15.

[8] Id. at 9.

[9] TSN, November 15, 2005, pp. 4-7.

[10] Chemistry Report No. D-059-2005, records (Criminal Case No. 11867), p. 7.

[11] TSN, January 23, 2006, pp. 5-8.

[12] Id. at 9.

[13] Id. at 10-11; TSN, January 10, 2006, pp. 2-3.

[14] Id. at 10.

[15] TSN, April 17, 2006, pp. 3-16.

[16] TSN, May 25, 2006, pp. 3-5.

[17] Records (Criminal Case No. 11867), p. 72.

[18] Rollo, pp. 12-13.

- [19] See *People v. Sta. Maria*, G.R. No. 171019, February 23, 2007, 516 SCRA 621, 633.
- [20] TSN, November 15, 2005, pp. 20-21.
- [21] *Id.* at 18-19.
- [22] TSN, January 10, 2006, pp. 2-3.
- [23] Exhibit "B-1", records (Criminal Case No. 11867), p. 16; TSN, February 15, 2006, pp. 3-5.
- [24] Exhibit "B", *id.*
- [25] TSN, October 6, 2005, pp. 2-5.
- [26] Exhibit "C", records (Criminal Case No. 11867), p. 17.
- [27] Exhibit "D", *id.* at 18.
- [28] Exhibit "D-3", TSN, January 23, 2006, p. 15.
- [29] Exhibit "D-1" and "D-2", *id.* at 15-16.
- [30] TSN, January 23, 2006, pp. 15-16.
- [31] TSN, November 15, 2005, pp. 10-11.
- [32] Records (Criminal Case No. 11867), pp. 3-4.
- [33] G.R. No. 185379, November 27, 2009, pp. 6-7, citing *People v. Cervantes*, G.R. No. 181494, March 17, 2009, 581 SCRA 762, 781, *Malillin v. People*, G.R. No. 172953, April 30, 2008, 553 SCRA 619, 631-632 and *People v. Bandang*, G.R. No. 151314, June 3, 2004, 430 SCRA 570, 586-587.
- [34] TSN, October 6, 2005, pp. 2-6.
- [35] CA rollo, p. 47.
- [36] *People v. Julian-Fernandez*, 423 Phil. 895, 910 (2001).
- [37] *People v. Cabugatan*, G.R. No. 172019, February 12, 2007, 515 SCRA 537, 547.
- [38] *People v. Sy*, G.R. No. 171397, September 27, 2006, 503 SCRA 772, 783.
- [39] TSN, May 25, 2006, p. 7.

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