

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. BELEN MARIACOS, APPELLANT.

G.R. No. 188611. June 16, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is an appeal from the Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02718, which affirmed the decision[2] of the Regional Trial Court (RTC), Branch 29, San Fernando City, La Union, in Criminal Case No. 7144, finding appellant Belen Mariacos guilty of violating Article II, Section 5 of Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

The facts of the case, as summarized by the CA, are as follows:

Accused-appellant Belen Mariacos was charged in an Information, dated November 7, 2005 of violating Section 5, Article II of Republic Act [No.] 9165, allegedly committed as follows:

"That on or about the 27[th] day of October, 2005, in the Municipality of San Gabriel, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously transport, deliver 7,030.3, (sic) grams of dried marijuana fruiting tops without the necessary permit or authority from the proper government agency or office.

CONTRARY TO LAW."

When arraigned on December 13, 2005, accused-appellant pleaded not guilty. During the pre-trial, the following were stipulated upon:

- "1. Accused admits that she is the same person identified in the information as Belen Mariacos;
2. That accused is a resident of Brgy. Lunoy, San Gabriel, La Union;
3. That at the time of the arrest of the accused, accused had just alighted from a passenger jeepney;
4. That the marijuana allegedly taken from the possession of the accused contained in two (2) bags were submitted for examination to the Crime Lab;
5. That per Chemistry Report No. D-109-2005, the alleged drug submitted for examination gave positive result for the presence of marijuana;
6. That the drugs allegedly obtained from the accused contained (sic) and submitted for examination weighed 7,030.3 grams;
7. The Prosecutor admits the existence of a counter-affidavit executed by the accused; and
8. The existence of the affidavits executed by the witnesses of the accused family (sic): Lyn Punasen, Mercedes Tila and Magdalena Carino."

During the trial, the prosecution established the following evidence:

On October 26, 2005, in the evening, the San Gabriel Police Station of San Gabriel, La Union, conducted a checkpoint near the police station at the poblacion to intercept a suspected transportation of marijuana from Barangay Balbalayang, San Gabriel, La Union. The group at the checkpoint was composed of PO2 Lunes B. Pallayoc ("PO2 Pallayoc"), the Chief of Police, and other policemen. When the checkpoint did not yield any suspect or marijuana, the Chief of Police instructed PO2 Pallayoc to proceed to Barangay Balbalayang to conduct surveillance operation (sic).

At dawn on October 27, 2005, in Barangay Balbalayang, PO2 Pallayoc met with a secret agent of the Barangay Intelligence Network who informed him that a baggage of marijuana had been loaded on a passenger jeepney that was about to leave for the poblacion. The agent mentioned three (3) bags and one (1) blue plastic bag. Further, the agent described a backpack bag with an "O.K." marking. PO2 Pallayoc then boarded the said jeepney and positioned himself on top thereof. While the vehicle was in motion, he found the black backpack with an "O.K." marking and peeked inside its contents. PO2 Pallayoc found bricks of marijuana wrapped in newspapers. He then asked the other passengers on top of the jeepney about the owner of the bag, but no one knew.

When the jeepney reached the poblacion, PO2 Pallayoc alighted together with the other passengers. Unfortunately, he did not notice who took the black backpack from atop the jeepney. He only realized a few moments later that the said bag and three (3) other bags, including a blue plastic bag, were already being carried away by two (2) women. He caught up with the women and introduced himself as a policeman. He told them that they were under arrest, but one of the women got away.

PO2 Pallayoc brought the woman, who was later identified as herein accused-appellant Belen Mariacos, and the bags to the police station. At the police station, the investigators contacted the Mayor of San Gabriel to witness the opening of the bags. When the Mayor arrived about fifteen (15) minutes later, the bags were opened and three (3) bricks of marijuana wrapped in newspaper, two (2) round bundles of marijuana, and two (2) bricks of marijuana fruiting tops, all wrapped in a newspaper, were recovered.

Thereafter, the investigators marked, inventoried and forwarded the confiscated marijuana to the crime laboratory for examination. The laboratory examination showed that the stuff found in the bags all tested positive for marijuana, a dangerous drug.

When it was accused-appellant's turn to present evidence, she testified that:

On October 27, 2005, at around 7:00 in the morning, accused-appellant, together with Lani Herbacio, was inside a passenger jeepney bound for the poblacion. While the jeepney was still at the terminal waiting for passengers, one Bennie Lao-ang ("Lao-ang"), her neighbor, requested her to carry a few bags which had been loaded on top of the jeepney. At first, accused-appellant refused, but she was persuaded later when she was told that she would only be carrying the bags. When they reached the poblacion, Lao-ang handed accused-appellant and her companion, Lani Herbacio, the bags, and then Lao-ang suddenly ran away. A few moments later, PO2 Pallayoc was upon them, arresting them. Without explanation, they were brought to the police station. When they were at the police station, Lani Herbacio disappeared. It was also at the police station that accused-appellant discovered the true contents of the bags which she was asked to carry. She maintained that she was not the owner of the bags and that she did not know what were contained in the bags. At the police station (sic) she executed a Counter-Affidavit.[3]

On January 31, 2007, the RTC promulgated a decision, the dispositive portion of which states:

WHEREFORE, the Court finds the accused Belen Mariacos GUILTY as charged and sentences here (sic) to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

The 7,030.3 grams of marijuana are ordered confiscated and turned over to the Philippine Drug Enforcement Agency for destruction in the presence of the Court personnel and media.

SO ORDERED.[4]

Appellant appealed her conviction to the CA. She argued that the trial court erred in considering the evidence of the prosecution despite its inadmissibility.[5] She claimed that her right against an unreasonable search was flagrantly violated by Police Officer (PO)2 Pallayoc when the latter searched the bag, assuming it was hers, without a search warrant and with no permission from her. She averred that PO2 Pallayoc's purpose for apprehending her was to verify if the bag she was carrying was the same one he had illegally searched earlier. Moreover, appellant contended that there was no probable cause for her arrest.[6]

Further, appellant claimed that the prosecution failed to prove the corpus delicti of the crime.[7] She alleged that the apprehending police officers violated Dangerous Drugs Board Regulation No. 3, Series of 1979, as amended by Board Regulation No. 2, Series of 1990, which prescribes the procedure in the custody of seized prohibited and regulated drugs, instruments, apparatuses, and articles. The said regulation directs the apprehending team having initial custody and control of the drugs and/or paraphernalia, immediately after seizure or confiscation, to have the same physically inventoried and photographed in the presence of appellant or her representative, who shall be required to sign copies of the inventory. The failure to comply with this directive, appellant claimed, casts a serious doubt on the identity of the items allegedly confiscated from her. She, likewise, averred that the prosecution failed to prove that the items allegedly confiscated were indeed prohibited drugs, and to establish the chain of custody over the same.

On the other hand, the People, through the Office of the Solicitor General (OSG), argued that the warrantless arrest of appellant and the warrantless seizure of marijuana were valid and legal,[8] justified as a search of a moving vehicle. It averred that PO2 Pallayoc had reasonable ground to believe that appellant had committed the crime of delivering dangerous drugs based on reliable information from their agent, which was confirmed when he peeked into the bags and smelled the distinctive odor of marijuana.[9] The OSG also argued that appellant was now estopped from questioning the illegality of her arrest since she voluntarily entered a plea of "not guilty" upon arraignment and participated in the trial and presented her evidence.[10] The OSG brushed aside appellant's argument that the bricks of marijuana were not photographed and inventoried in her presence or that of her counsel immediately after confiscation, positing that physical inventory may be done at the nearest police station or at the nearest office of the apprehending team, whichever was practicable.[11]

In a Decision dated January 19, 2009, the CA dismissed appellant's appeal and affirmed the RTC decision in toto.[12] It held that the prosecution had successfully proven that appellant carried away from the jeepney a number of bags which, when inspected by the police, contained dangerous drugs. The CA ruled that appellant was caught in flagrante delicto of "carrying and conveying" the bag that contained the illegal drugs, and thus held that appellant's warrantless arrest was valid. The appellate court ratiocinated:

It must be stressed that PO2 Pallayoc had earlier ascertained the contents of the bags when he was aboard the jeep. He saw the bricks of marijuana wrapped in newspaper. That said marijuana was on board the jeepney to be delivered to a specified destination was already unlawful. PO2 Pallayoc needed only to see for himself to whom those bags belonged. So, when he saw accused-appellant carrying the bags, PO2 Pallayoc was within his lawful duty to make a warrantless arrest of accused-appellant.

x x x x

Firstly, this Court opines that the invocation of Section 2, Article III of the Constitution is misplaced. At the time, when PO2 Pallayoc looked into the contents of the suspicious bags, there was no identified owner. He

asked the other passengers atop the jeepney but no one knew who owned the bags. Thus, there could be no violation of the right when no one was entitled thereto at that time.

Secondly, the facts of the case show the urgency of the situation. The local police has been trying to intercept the transport of the illegal drugs for more than a day, to no avail. Thus, when PO2 Pallayoc was tipped by the secret agent of the Barangay Intelligence Network, PO2 Pallayoc had no other recourse than to verify as promptly as possible the tip and check the contents of the bags.

Thirdly, x x x the search was conducted in a moving vehicle. Time and again, a search of a moving vehicle has been justified on the ground that the mobility of motor vehicles makes it possible for the vehicle to move out of the locality or jurisdiction in which the warrant must be sought. Thus, under the facts, PO2 Pallayoc could not be expected to secure a search warrant in order to check the contents of the bags which were loaded on top of the moving jeepney. Otherwise, a search warrant would have been of no use because the motor vehicle had already left the locality.[13]

Appellant is now before this Court, appealing her conviction.

Once again, we are asked to determine the limits of the powers of the State's agents to conduct searches and seizures. Over the years, this Court had laid down the rules on searches and seizures, providing, more or less, clear parameters in determining which are proper and which are not.

Appellant's main argument before the CA centered on the inadmissibility of the evidence used against her. She claims that her constitutional right against unreasonable searches was flagrantly violated by the apprehending officer.

Thus, we must determine if the search was lawful. If it was, then there would have been probable cause for the warrantless arrest of appellant.

Article III, Section 2 of the Philippine Constitution provides:

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Law and jurisprudence have laid down the instances when a warrantless search is valid. These are:

1. Warrantless search incidental to a lawful arrest recognized under Section 12 [now Section 13], Rule 126 of the Rules of Court and by prevailing jurisprudence;
2. Seizure of evidence in "plain view," the elements of which are:
 - (a) a prior valid intrusion based on the valid warrantless arrest in which the police are legally present in the pursuit of their official duties;
 - (b) the evidence was inadvertently discovered by the police who had the right to be where they are;
 - (c) the evidence must be immediately apparent[;] and;
 - (d) "plain view" justified mere seizure of evidence without further search.
3. Search of a moving vehicle. Highly regulated by the government, the vehicle's inherent mobility reduces expectation of privacy especially when its transit in public thoroughfares furnishes a highly reasonable suspicion amounting to probable cause that the occupant committed a criminal activity;

4. Consented warrantless search;
5. Customs search;
6. Stop and Frisk;and
7. Exigent and Emergency Circumstances.[14]

Both the trial court and the CA anchored their respective decisions on the fact that the search was conducted on a moving vehicle to justify the validity of the search.

Indeed, the search of a moving vehicle is one of the doctrinally accepted exceptions to the Constitutional mandate that no search or seizure shall be made except by virtue of a warrant issued by a judge after personally determining the existence of probable cause.[15]

In *People v. Bagista*,[16] the Court said:

The constitutional proscription against warrantless searches and seizures admits of certain exceptions. Aside from a search incident to a lawful arrest, a warrantless search had been upheld in cases of a moving vehicle, and the seizure of evidence in plain view.

With regard to the search of moving vehicles, this had been justified on the ground that the mobility of motor vehicles makes it possible for the vehicle to be searched to move out of the locality or jurisdiction in which the warrant must be sought.

This in no way, however, gives the police officers unlimited discretion to conduct warrantless searches of automobiles in the absence of probable cause. When a vehicle is stopped and subjected to an extensive search, such a warrantless search has been held to be valid only as long as the officers conducting the search have reasonable or probable cause to believe before the search that they will find the instrumentality or evidence pertaining to a crime, in the vehicle to be searched.

It is well to remember that in the instances we have recognized as exceptions to the requirement of a judicial warrant, it is necessary that the officer effecting the arrest or seizure must have been impelled to do so because of probable cause. The essential requisite of probable cause must be satisfied before a warrantless search and seizure can be lawfully conducted.[17] Without probable cause, the articles seized cannot be admitted in evidence against the person arrested.[18]

Probable cause is defined as a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to induce a cautious man to believe that the person accused is guilty of the offense charged. It refers to the existence of such facts and circumstances that can lead a reasonably discreet and prudent man to believe that an offense has been committed, and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law are in the place to be searched.[19]

The grounds of suspicion are reasonable when, in the absence of actual belief of the arresting officers, the suspicion that the person to be arrested is probably guilty of committing the offense is based on actual facts, i.e., supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested. A reasonable suspicion therefore must be founded on probable cause, coupled with good faith on the part of the peace officers making the arrest.[20]

Over the years, the rules governing search and seizure have been steadily liberalized whenever a moving vehicle is the object of the search on the basis of practicality. This is so considering that before a warrant could be obtained, the place, things and persons to be searched must be described to the satisfaction of the issuing judge - a requirement which borders on the impossible in instances where moving vehicle is used to transport contraband

from one place to another with impunity.[21]

This exception is easy to understand. A search warrant may readily be obtained when the search is made in a store, dwelling house or other immobile structure. But it is impracticable to obtain a warrant when the search is conducted on a mobile ship, on an aircraft, or in other motor vehicles since they can quickly be moved out of the locality or jurisdiction where the warrant must be sought.[22]

Given the discussion above, it is readily apparent that the search in this case is valid. The vehicle that carried the contraband or prohibited drugs was about to leave. PO2 Pallayoc had to make a quick decision and act fast. It would be unreasonable to require him to procure a warrant before conducting the search under the circumstances. Time was of the essence in this case. The searching officer had no time to obtain a warrant. Indeed, he only had enough time to board the vehicle before the same left for its destination.

It is well to remember that on October 26, 2005, the night before appellant's arrest, the police received information that marijuana was to be transported from Barangay Balbalayang, and had set up a checkpoint around the area to intercept the suspects. At dawn of October 27, 2005, PO2 Pallayoc met the secret agent from the Barangay Intelligence Network, who informed him that a baggage of marijuana was loaded on a passenger jeepney about to leave for the poblacion. Thus, PO2 Pallayoc had probable cause to search the packages allegedly containing illegal drugs.

This Court has also, time and again, upheld as valid a warrantless search incident to a lawful arrest. Thus, Section 13, Rule 126 of the Rules of Court provides:

SEC. 13. Search incident to lawful arrest.--A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant.[23]

For this rule to apply, it is imperative that there be a prior valid arrest. Although, generally, a warrant is necessary for a valid arrest, the Rules of Court provides the exceptions therefor, to wit:

SEC. 5. Arrest without warrant; when lawful.--A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112.[24]

Be that as it may, we have held that a search substantially contemporaneous with an arrest can precede the arrest if the police has probable cause to make the arrest at the outset of the search.[25]

Given that the search was valid, appellant's arrest based on that search is also valid.

Article II, Section 5 of the Comprehensive Dangerous Drugs Act of 2002 states:

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.

In her defense, appellant averred that the packages she was carrying did not belong to her but to a neighbor who had asked her to carry the same for him. This contention, however, is of no consequence.

When an accused is charged with illegal possession or transportation of prohibited drugs, the ownership thereof is immaterial. Consequently, proof of ownership of the confiscated marijuana is not necessary.[26]

Appellant's alleged lack of knowledge does not constitute a valid defense. Lack of criminal intent and good faith are not exempting circumstances where the crime charged is *malum prohibitum*, as in this case.[27] Mere possession and/or delivery of a prohibited drug, without legal authority, is punishable under the Dangerous Drugs Act.[28]

Anti-narcotics laws, like anti-gambling laws, are regulatory statutes. They are rules of convenience designed to secure a more orderly regulation of the affairs of society, and their violation gives rise to crimes *mala prohibita*. Laws defining crimes *mala prohibita* condemn behavior directed not against particular individuals, but against public order.[29]

Jurisprudence defines "transport" as "to carry or convey from one place to another." [30] There is no definitive moment when an accused "transports" a prohibited drug. When the circumstances establish the purpose of an accused to transport and the fact of transportation itself, there should be no question as to the perpetration of the criminal act.[31] The fact that there is actual conveyance suffices to support a finding that the act of transporting was committed and it is immaterial whether or not the place of destination is reached.[32]

Moreover, appellant's possession of the packages containing illegal drugs gave rise to the disputable presumption[33] that she is the owner of the packages and their contents.[34] Appellant failed to rebut this presumption. Her uncorroborated claim of lack of knowledge that she had prohibited drug in her possession is insufficient.

Appellant's narration of facts deserves little credence. If it is true that Bennie Lao-ang merely asked her and her companion to carry some baggages, it is but logical to first ask what the packages contained and where these would be taken. Likewise, if, as appellant said, Lao-ang ran away after they disembarked from the jeepney, appellant and her companion should have ran after him to give him the bags he had left with them, and not to continue on their journey without knowing where they were taking the bags.

Next, appellant argues that the prosecution failed to prove the *corpus delicti* of the crime. In particular, she alleged that the apprehending police officers failed to follow the procedure in the custody of seized prohibited and regulated drugs, instruments, apparatuses, and articles.

In all prosecutions for violation of the Dangerous Drugs Act, the existence of all dangerous drugs is a *sine qua*

non for conviction. The dangerous drug is the very corpus delicti of that crime.[35]

Thus, Section 21 of R.A. No. 9165 prescribes the procedure for custody and disposition of seized dangerous drugs, to wit:

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.

The Implementing Rules and Regulations (IRR) of R.A. No. 9165 further provides:

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.

PO2 Pallayoc testified that after apprehending appellant, he immediately brought her to the police station. At the station, the police requested the Mayor to witness the opening of the bags seized from appellant. When the Mayor arrived, he opened the bag in front of appellant and the other police officers. The black bag yielded three bricks of marijuana wrapped in newspaper, while the plastic bag yielded two bundles of marijuana and two bricks of marijuana fruiting tops.[36] PO2 Pallayoc identified the bricks. He and PO3 Stanley Campit then marked the same. Then the seized items were brought to the PNP Crime Laboratory for examination.

It is admitted that there were no photographs taken of the drugs seized, that appellant was not accompanied by counsel, and that no representative from the media and the DOJ were present. However, this Court has already previously held that non-compliance with Section 21 is not fatal and will not render an accused's arrest illegal, or make the items seized inadmissible. What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items.[37]

Based on the testimony of PO2 Pallayoc, after appellant's arrest, she was immediately brought to the police station

where she stayed while waiting for the Mayor. It was the Mayor who opened the packages, revealing the illegal drugs, which were thereafter marked and sent to the police crime laboratory the following day. Contrary to appellant's claim, the prosecution's evidence establishes the chain of custody from the time of appellant's arrest until the prohibited drugs were tested at the police crime laboratory.

While it is true that the arresting officer failed to state explicitly the justifiable ground for non-compliance with Section 21, this does not necessarily mean that appellant's arrest was illegal or that the items seized are inadmissible. The justifiable ground will remain unknown because appellant did not question the custody and disposition of the items taken from her during the trial.[38] Even assuming that the police officers failed to abide by Section 21, appellant should have raised this issue before the trial court. She could have moved for the quashal of the information at the first instance. But she did not. Hence, she is deemed to have waived any objection on the matter.

Further, the actions of the police officers, in relation to the procedural rules on the chain of custody, enjoyed the presumption of regularity in the performance of official functions. Courts accord credence and full faith to the testimonies of police authorities, as they are presumed to be performing their duties regularly, absent any convincing proof to the contrary.[39]

In sum, the prosecution successfully established appellant's guilt. Thus, her conviction must be affirmed.

WHEREFORE, the foregoing premises considered, the appeal is DISMISSED. The Decision of the Court of Appeals in CA-G.R. CR-HC No. 02718 is AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Perez,[*] JJ., concur.

[*] Additional member in lieu of Associate Justice Jose Catral Mendoza per Raffle dated February 22, 2010.

[1] Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Martin S. Villarama, Jr. (now a member of this Court) and Estela M. Perlas-Bernabe, concurring; rollo, pp. 2-13.

[2] CA rollo, pp. 13-29.

[3] Rollo, pp. 2-5.

[4] CA rollo, p. 29.

[5] Id. at 45.

[6] Id. at 48.

[7] Id. at 50.

[8] Id. at 108.

[9] Id. at 112.

[10] Id. at 113.

[11] Id. at 114-115.

[12] Rollo, p. 13.

- [13] Id. at 8-9.
- [14] *People v. Aruta*, 351 Phil. 868, 879-880 (1998). (Citations omitted.)
- [15] *Asuncion v. Court of Appeals*, 362 Phil. 118, 126 (1999), citing *Mustang Lumber, Inc. v. Court of Appeals*, 257 SCRA 430 (1996); and *People v. Lo Ho Wing*, 193 SCRA 122 (1991).
- [16] G.R. No. 86218, September 18, 1992, 214 SCRA 63, 68-69. (Citations omitted.)
- [17] *People v. Aruta*, supra note 14, at 880.
- [18] Except when the prohibited items are in plain view.
- [19] *People v. Aruta*, supra note 14, at 880, citing *People v. Encinada*, 345 Phil. 301 (1997).
- [20] *People v. Doria*, 361 Phil. 595, 632 (1999).
- [21] *People v. Lo Ho Wing*, supra note 15, at 128-129, citing *Carroll v. United States*, 267 U.S. 132, 153 (1925); *People v. Del Mundo*, 418 Phil. 740 (2001).
- [22] *Salvador v. People*, 502 Phil. 60, 72 (2005).
- [23] Revised Rules on Criminal Procedure, Rule 126.
- [24] Revised Rules on Criminal Procedure, Rule 113.
- [25] *People v. Nuevas*, G.R. No. 170233, February 22, 2007, 516 SCRA 463, citing *People v. Tudtud*, 458 Phil. 752 (2003).
- [26] *People v. Del Mundo*, supra note 21, at 751. (Citations omitted.)
- [27] Id., citing *People v. Sy Bing Yok*, 309 SCRA 28, 38 (1999).
- [28] *People v. Beriamente*, 418 Phil. 229, 239 (2001).
- [29] *People v. Doria*, supra note 20, at 618. (Citations omitted.)
- [30] *People v. Peñaflores*, G.R. No. 175604, April 10, 2008, 551 SCRA 111, 125.
- [31] *People v. Jones*, 343 Phil. 865, 877 (1997).
- [32] *People v. Correa*, G.R. No. 119246, January 30, 1998, 285 SCRA 679, 700.
- [33] Section 3 (j) of Rule 131 of the Revised Rules of Court states:
- Sec. 3. Disputable presumptions.--The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:
- x x x x
- (j) That a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act; otherwise, that things which a person possesses, or exercises acts of ownership over, are owned by him.
- [34] See *People v. Del Mundo*, supra note 21.
- [35] *People v. Kimura*, 471 Phil. 895, 909 (2004), citing *People v. Mendiola*, 235 SCRA 116, 120 (1994).
- [36] CA rollo, p. 16.

[37] *People v. Concepcion*, G.R. No. 178876, June 27, 2008, 556 SCRA 421, 436-437, citing *People v. Del Monte*, 552 SCRA 627 (2008).

[38] See *People v. Pringas*, G.R. No. 175928, August 31, 2007, 531 SCRA 828; *People v. Sta. Maria*, G.R. No. 171019, February 23, 2007, 516 SCRA 621, 633.

[39] *People v. Santiago*, G.R. No. 175326, November 28, 2007, 539 SCRA 198, 223.

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