

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUPER POSING Y ALAYON, ACCUSED-APPELLANT.

G.R. No. 196973. July 31, 2013

Ponente: PEREZ, J.

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PEREZ, J.:

For review through this appeal[1] is the Decision[2] dated 30 November 2010 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03858 which affirmed the conviction of herein accused-appellant RUPER POSING y ALAYON of illegal sale and illegal possession of dangerous drugs in violation of Sections 5[3] and 11[4] respectively, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The factual antecedents of the case are as follows:

The prosecution presented SPO1 Purisimo Angeles (SPO1 Angeles), who testified that while on duty on 13 August 2003, at the Station Anti Illegal Drugs (SAID), an asset based at Makabayan St., Brgy. Obrero informed the duty officer about the illegal activities of certain Ruper Posing (Posing), a known drug pusher in their barangay. As a result, Chief P/Inspector Arturo Caballes (Chief Caballes) formed a team to conduct a buy bust operation. [5] A one hundred peso bill (P100.00) was given by Chief Caballes with his initials, to serve as the marked money.[6]

SPO1 Angeles together with PO1 Jesus Cortez (PO1 Cortez), PO1 Ralph Nicart (PO1 Nicart) and the informant were dispatched to Makabayan St., Brgy. Obrero, Kamuning, Quezon City, and upon arrival, the informant and SPO1 Angeles proceeded to the squatter's area. On the other hand, his companions positioned themselves within viewing distance.[7]

SPO1 Angeles met Posing beside the basketball court, where he was introduced by the informant as a buyer of shabu. The former asked if he could buy one hundred peso (P100.00) worth of shabu for personal use. Posing then pulled out one (1) transparent plastic sachet from his pocket and gave it to SPO1 Angeles in exchange for the buy-bust money. Afterwards, SPO1 Angeles took out his cap to alert his companions that the deal was already concluded. PO1 Cortez and PO1 Nicart rushed to the scene and introduced themselves as police officers. Posing was frisked, and the buy- bust money and another transparent plastic sachet were recovered from him. Afterwards, the suspect and the evidence were taken to the station.[8]

Prior to the turnover of the evidence to the desk officer, SPO1 Angeles placed his marking on the two (2) small heat sealed transparent plastic sachets.[9] The same were then turned over to PO2 John Sales (PO2 Sales), who prepared a request for laboratory examination.[10]

On the same day, the specimens were delivered by PO1 Nicart to the Philippine National Police (PNP) Crime Laboratory for quantitative and qualitative examination, wherein each sachet was found to contain 0.03 gram and tested positive for methylamphetamine hydrochloride or shabu, a dangerous drug.[11]

Both parties agreed to dispense with the testimonies of the following witnesses, and entered into stipulations, to

wit:

As regards Engr. Leonard Jabonillo (Engr. Jabonillo):

- 1) That he is a Forensic Chemist of the [PNP];
- 2) That his office received a request for laboratory examination marked as Exhibit “A;”
- 3) That together with said request, was a brown envelope marked as Exhibit “B” which contained two (2) plastic sachets marked as Exhibits “B-1” and “B-2;”
- 4) That he thereafter conducted the requested laboratory examination and, in connection therewith, he submitted Chemistry Report marked as Exhibit “C;”
- 5) That the findings thereon showing the specimen positive for methylamphetamine hydrochloride was marked as Exhibit “C-1;”
- 6) That he likewise issued a Certification marked as Exhibit “D” and thereafter turned over the specimen to the Evidence Custodian and retrieved the same for the trial scheduled today; and
- 7) That he has no personal knowledge about the circumstances surrounding the arrest of the accused as well as the source of the substance subject of his examination.[12]

As regards PO2 Sales:

- 1) That he was the investigator assigned to investigate this case;
- 2) That in connection with the investigation he conducted and took the Affidavit of Arrest of [PO1 Nicart], [PO1 Cortez] and [SPO1 Angeles] (Exhibit “E”);
- 3) That the two (2) plastic sachets marked as Exhibits “B-1” and “B-2” were turned over to him by the arresting officers;
- 4) That he prepared a request for laboratory examination marked as Exhibit “A” and in connection therewith he received a copy of the Chemistry Report, the original of which was marked as Exhibit “C;”
- 5) That the buy bust money consisting of one (1) P100.00 bill marked as Exhibit “F” was likewise turned over to him with the updated “Watchlist of [Illegal] Drug Personalities” of Bgy. Obrero, Quezon City (Exhibit “G”);
- 6) That he thereafter prepared the letter referral to the Office of the City Prosecutor, Quezon City marked as Exhibit “H;” and
- 7) That he has no personal knowledge about the circumstances surrounding the arrest of the accused as well as the source of the substance subject of his investigation.[13]

On the contrary, Posing testified that on 13 August 2004, between 4:00 to 5:00 o’clock in the afternoon, he was walking along a basketball court at Makabayan St., Kamuning, Quezon City, when he was arrested by PO1 Cortez and PO1 Nicart, who he came to know based on their name plates.[14] When he asked the officers what his violation was, they replied: “Nag-mamaang-maangan ka pa.”[15] He was then led to their vehicle and was brought to Station 10 wherein he was asked to point to a certain “Nene” whom he did not know. He refused, which was why he was detained and charged with violation of R.A. No. 9165.[16]

Based on the above, the following were filed against the accused:

For Criminal Case No. Q-03-120266 for violation of Section 5, Article II of R.A. No. 9165:

That on or about the 13[th] day of August, 2003, in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport, distribute any dangerous drug, did then and there, wilfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, 0.03 (zero point zero three) gram of white crystalline substance containing Methylamphetamine Hydrochloride, a dangerous drug.[17]

For Criminal Case No. Q-03-120267 for violation of Section 11, Article II of R.A. No. 9165:

That on or about the 13[th] day of August, 2003, in Quezon City, Philippines, the said accused, not being authorized by law to possess or use any dangerous drug, did then and there wilfully, unlawfully and knowingly have in his/her possession and control 0.03 (zero point zero three) gram of white crystalline substance containing Methylamphetamine Hydrochloride, a dangerous drug.[18]

Upon arraignment on 2 December 2003, Posing entered a plea of “not guilty” on both charges.[19]

On 2 December 2008, the trial court found Posing GUILTY of violation of both Sections 5 and 11, Article II, of R.A. 9165 in Criminal Case No. Q-03-120266 and Criminal Case No. Q-03-120267, respectively. The disposition reads:

WHEREFORE, premises considered, judgement is hereby rendered as follows:

(a) Re: Criminal Case No. Q-03-120266 – The Court finds accused RUPER POSING y ALAYON guilty beyond reasonable doubt of a violation of Section 5, Article II of R. A. 9165. Accordingly, he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine in the amount of Five Hundred Thousand (P500,000.00) PESOS.

(b) Re: Criminal Case No. Q-03-120267 – The Court finds accused RUPER POSING y ALAYON guilty beyond reasonable doubt of a violation of Section 11, Article II of R. A. 9165. Accordingly, he is hereby sentenced to suffer the indeterminate penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY as MINIMUM to FOURTEEN (14) YEARS as MAXIMUM and to pay a fine in the amount of THREE HUNDRED THOUSAND (P300,000.00) PESOS.

The Branch Clerk of Court is hereby ordered to turn over the possession of custody of the dangerous drugs subject hereof to the Philippine Drug Enforcement Agency for proper disposition and final disposal.[20]

On appeal, the accused-appellant, contended that the trial court gravely erred when it failed to consider the police officers’ failure to comply with the proper procedure in the handling and custody of the seized drugs, as provided under Section 21 of R. A. No. 9165, which ultimately affected the chain of custody of the confiscated drugs.[21] Further, it was posited that there was no prior surveillance conducted to verify the informant’s tip and that there was no coordination made with the Philippine Drug Enforcement Agency (PDEA).[22] Furthermore, the accused-appellant invoked his right to be presumed innocent until proven guilty beyond reasonable doubt.[23]

The People, through the Office of the Solicitor General, countered that although the requirements under Section 21 of R. A. No. 9165 has been held to be mandatory, non-compliance with the same, does not necessarily warrant an acquittal.[24] In addition, it was averred that the police officers are entitled to the presumption of regularity in the performance of official duties. Finally, the accused-appellant did not interpose any evidence in support of his defense aside from his bare denial.[25]

The CA affirmed the ruling of the trial court. The dispositive portion reads:

WHEREFORE, the Decision of the Regional Trial Court of Quezon City, Branch 82, dated 2 December 2008, in Criminal Cases Nos. Q-03-120266 and Q-03-120267, is AFFIRMED.[26]

The appellate court ruled that the requisites laid down under Section 21 of R. A. No. 9165 were complied with, more particularly, through the testimonies of the police officers which sufficiently established that the integrity and the evidentiary value of the seized items were preserved.[27] As to the alleged non-coordination with the PDEA, it was held that although the PDEA is the lead agency, it is not to be considered as the exclusive agency, in enforcing drug-related matters. Lastly, the evidence presented by the prosecution clearly showed that the elements of illegal sale and possession of dangerous drugs were proven by competent evidence, as compared to the bare denial interposed by the accused-appellant.[28]

In the instant appeal, accused-appellant, merely reiterated his previous arguments before the appellate court that the prosecution failed to establish the complete and unbroken chain of custody of the plastic sachets of shabu allegedly sold and possessed by accused-appellant.[29]

Posed for resolution is whether or not the accused-appellant is guilty of illegal sale and possession of dangerous drugs, and in the course of the investigation and trial, whether the integrity of the evidence was preserved.

We uphold the ruling of both the trial and the appellate court.

Both agreed that the illegal sale of shabu was proven beyond reasonable doubt. For the successful prosecution of offenses involving the illegal sale of drugs under Section 5, Article II of R.A. No. 9165, the following elements must be proven: (1) the identity of the buyer and seller, object and consideration; and (2) the delivery of the thing sold and the payment therefor. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti.[30]

SPO1 Angeles testified thus:

Q:

Now Mr. Witness did you report for duty on August 13, 2003?

A:

Yes, sir.

Q:

What happened while you were...What time did you report for duty?

A:

I reported at around 10:00 in the morning.

Q:

What happened while you were on duty on that date and time?

A:

At around 5:30 in the afternoon, one of our asset which is based at Makabayan St., Brgy. Obrero, came to our office and informed our duty officer about a certain Rupert Posing who was known as drug pusher at their Barangay.

Q:

What happened after this report was given to the desk officer?

A:

Since the suspect is also included in our drug watch list, our Chief [SAID] immediately formed a team to conduct buy-bust operation against the suspect.[31]

x x x x

Q:

What else transpired Mr. Witness?

A:

After forming the said team, our Chief SAID P/Insp. Arturo Caballes gave me one (1) piece Php 100.

Q:

What did he do?

A:

He gave me one (1) piece Php100 which will be used as the buy bust money.[32]

x x x x

Q:

What happened next Mr. Witness after placing your initial on that Php 100?

A:

After that we were immediately dispatched to the location at Makabayan St., Brgy. Obrero.

x x x x

Q:

Where in Quezon City?

A:

Kamuning, Your Honor.

Q:

District of Kamuning?

A:

Yes, Your Honor.

Q:

What time was that when you were dispatched?

A:

We were dispatched at about 5:40 and we arrived at the location at around 5:45. It was just a 5-minute drive from our station.

Q:

And who were with you at that time, Mr. Witness?

A:

[PO1 Cortez] and [PO1 Nicart].

Q:

Who else?

A:

[PO1 Cortez].

Q:

Who else?

A:

And the informant, Your Honor.

Q:

So how many were you all in all?

A:

Four (4), sir.

Q:

What happened when you arrived there?

A:

Upon arrival thereat, I, together with the informant went to the squatter's area of Makabayan St., and my companions positioned themselves in the viewing distance so that they will be able to monitor the transaction. We were able to meet the suspect beside the basketball court of Makabayan Street.

Q:

And what happened when you met the suspect?

A:

I was introduced by the informant as the buyer of shabu and I asked the suspect if I can purchase worth Php100 just for my personal use?

Q:

You asked him?

A:

Yes, sir.

Q:

What was his reply?

A:

Immediately, he pulled out one (1) transparent plastic sachet.

Q:

Where did he get that plastic sachet?

A:

Inside his pocket, sir.

Q:

And what happened next Mr. Witness?

A:

After the exchange, I immediately took out my cap signifying completion of the drug deal.

Q:

After making the pre-arranged signal, what happened next? What is your pre-arranged signal?

A:

Removing my cap, Your Honor. After that, my two (2) companions PO1 Nicart and PO1 Cortez immediately rushed to the scene, took hold of the suspect and introduced themselves as police officers.

Q:

How about you, what did you do?

A:

I'm just beside the suspect.

Q:

And what happened when your companion arrested the suspect?

A:

Then I conducted body frisk on the suspect and I was able to recover the buy bust money and another transparent plastic sachet inside his left palm.

Q:

Which buy-bust money are you referring to?

A:

Which I gave to the suspect.

Q:

If that buy-bust money is shown to you will you be able to identify the same?

A:

Yes, sir. I have already identified it.

x x x x

Q:

I'm showing you Mr. Witness two (2) transparent plastic sachets marked as Exhibits "B-1" and "B-2," kindly examine these two (2) plastic sachets and tell this Honorable Court the relation of these sachets to the one you said you bought and recovered from the accused?

A:

This one with marking RT1 is the one I bought from the suspect and the other heat sealed transparent plastic sachet which is marked as RT2 which I recovered from his left palm.[33]

In cases involving violations of Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. In this regard, the defense failed to show any ill motive or odious intent on the part of the police operatives to impute such a serious crime that would put in jeopardy the life and liberty of an innocent person, such as in the case of appellant. Incidentally, if these were simply trumped-up charges against him, it remains a question why no administrative charges were brought against the police operatives. Moreover, in weighing the testimonies of the prosecution witnesses vis-à-vis those of the defense, it is a well-settled rule that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.[34]

With the illegal sale of dangerous drugs established beyond reasonable doubt, the handling of the evidence, or the observance of the proper chain of custody, which is also an indispensable factor in prosecution for illegal sale of dangerous drugs, is the next matter to be resolved.

The accused-appellant, argued that the following instances would constitute a break in the chain of custody of the seized plastic sachets of shabu: (1) SPO1 Angeles failed to identify the duty officer to whom he turned over the alleged confiscated shabu; (2) SPO1 Angeles was not able to recall who brought the drug specimens to the crime laboratory; (3) SPO1 Angeles failed to mark the confiscated sachets at the crime scene immediately after the accused-appellant was arrested; and (4) the police officers failed to prepare an inventory report of the confiscated drugs, no photographs of the same were taken in the presence of the accused-appellant and that of a representative from the media or the Department of Justice or any elected public official.[35]

Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002 which implements R.A. No. 9165 defines "Chain of Custody" as follows:

"Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

In *Malillin v. People*,[36] we laid down the chain of custody requirements that must be met in proving that the seized drugs are the same ones presented in court: (1) testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence; and (2) witnesses should describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the item.

In this case, the prosecution was able to prove, through the testimonies of its witnesses that the integrity of the

seized item was preserved every step of the process. After the sale of shabu and another sachet was discovered in the person of accused-appellant, SPO1 Angeles, who was the poseur-buyer in the buy-bust operation, marked the drug specimens, and then turned over the same to the desk officer, who in turn handed it to PO1 Sales. The latter then prepared a Request for Laboratory Examination, and on the same day, the specimens were delivered by PO1 Nicart to the PNP Crime Laboratory for quantitative and qualitative examination, conducted by Engr. Jabonillo.[37]

The same was corroborated by PO1 Sales and Engr. Jabonillo, whose testimonies were dispensed with, and formed part of the stipulations of facts agreed upon by both the prosecution and defense.[38]

The defense kept on harping on alleged lapses in the procedure observed by the apprehending officers, like SPO1 Angeles' failure to recall the duty officer to whom he turned over the specimens, and the officer who brought the specimens to the crime laboratory. Also, they questioned the absence of an inventory report of the confiscated drugs and that there were no photographs taken in the presence of the accused-appellant and that of a representative from the media or the Department of Justice or any elected public officer.

Section 21, paragraph 1, Article II of Republic Act No. 9165 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:

(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

But time and again, jurisprudence is consistent in stating that less than strict compliance with the procedural aspect of the chain of custody rule does not necessarily render the seized drug items inadmissible.[39]

As held in *People v. Llanita*[40] as cited in *People v. Ara*:[41]

RA 9165 and its subsequent Implementing Rules and Regulations (IRR) do not require strict compliance as to the chain of custody rule. x x x We have emphasized that what is essential is "the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused." Briefly stated, non-compliance with the procedural requirements under RA 9165 and its IRR relative to the custody, photographing, and drug-testing of the apprehended persons, is not a serious flaw that can render void the seizures and custody of drugs in a buy-bust operation.

As to the charge of illegal possession of dangerous drugs, the prosecution must establish the following elements: (1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.[42] In the case at hand, the prosecution was able to prove that the accused-appellant was in possession of one (1) plastic sachet of shabu, when he was frisked on the occasion of his arrest. There was also no showing that he had the authority to possess the drugs that was in his person. This Court held in a catena of cases that mere possession of a regulated drug per se constitutes prima facie evidence of knowledge or animus possidendi sufficient to convict an accused absent a satisfactory explanation of such possession – the onus probandi is shifted to the accused, to

explain the absence of knowledge or animus possidendi.[43]

In fine, considering the pieces of evidence presented by the prosecution, the denial of the accused-appellant fails. Courts generally view the defense of denial with disfavor due to the facility with which an accused can concoct it to suit his or her defense. As evidence that is both negative and self-serving, this defense cannot attain more credibility than the testimonies of the prosecution witnesses who testify clearly, providing thereby positive evidence on the various aspects of the crime committed.[44]

Also, it is a well-entrenched principle that findings of fact of the trial court as to the credibility of witnesses are accorded great weight and respect when no glaring errors, gross misapprehension of facts, and speculative, arbitrary and unsupported conclusions can be gathered from such findings. The rationale behind this rule 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 trial. This rule finds an even more stringent application where said findings are sustained by the Court of Appeals.[45] This Court does not find any convincing reason to depart from the ruling of the trial court, which was affirmed by the appellate court.

WHEREFORE, the instant appeal is DENIED. Accordingly, the Decision of the Court of Appeals dated 30 November 2010 in CA-G. R. CR-HC No. 03858 is hereby AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Perlas-Bernabe, JJ., concur.

[1] Rollo, p. 17; Via a Notice of Appeal, pursuant to Section 2 (c) of Rule 122 of the Rules of Court.

[2] Id. at 2-16; Penned by Associate Justice Ricardo R. Rosario, with Associate Justices Hakim S. Abdulwahid and Samuel H. Gaerlan concurring.

[3] 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.

x x x x

[4] Section 11. Possession of Dangerous Drugs. – 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu”, or other dangerous drugs such as, but not limited to, MDMA or “ecstasy”, PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

[5] TSN, 8 August 2006, p. 3; Direct Examination of SPO1 Angeles.

[6] Id. at 4.

[7] Id. at 5-6.

[8] Id. at 7-8.

[9] Id. at 8.

[10] Id. at 9-10.

[11] Records, p. 145-146; Request for Laboratory Examination; Records, p. 147; Chemistry Report.

[12] CA rollo, pp. 123-124; CA Decision.

[13] Id. at 124.

[14] TSN, 25 November 2008, pp. 2-3; Direct examination of Posing.

[15] Id. at 4.

[16] Id. at 5-7.

[17] Records, p. 2.

[18] Id. at 6.

[19] Id. at 30.

[20] CA rollo, p. 31; RTC Decision.

[21] Id. at 55; Accused-Appellant's Brief.

[22] Id. at 57-58.

[23] Id. at 60.

[24] Id. at 93; Plaintiff-Appellee's Brief.

[25] Id. at 97.

[26] Id. at 134-135.

[27] Id. at 130-131.

[28] Id. at 132-134.

[29] Rollo, pp. 34-41; Accused-Appellant's Supplemental Brief.

[30] People v. Andres, G. R. No. 193184, 7 February 2011, 641 SCRA 602, 608 citing People v. Serrano, G. R. No. 179038, 6 May 2010, 620 SCRA 327.

[31] TSN, 8 August 2006, p. 3; Direct testimony of SPO1 Angeles.

[32] Id. at 4.

[33] Id. at 5-9.

[34] People v. Sembrano, G. R. No. 185848, 16 August 2010, 628 SCRA 328, 342 citing People v. Lamado, G. R.

No. 185278, 13 March 2009, 581 SCRA 544, 552 and *People v. Remerata*, G. R. No. 147230, 449 Phil. 813, 822 (2003).

[35] Rollo, pp. 35-38.

[36] G. R. No. 172953, 30 April 2008, 553 SCRA 619, 632-633.

[37] CA rollo, pp. 125-126.

[38] *Id.* at 123-124.

[39] *People v. Cardenas*, G. R. No. 190342, 21 March 2012, 668 SCRA 827, 836-837.

[40] G.R. No. 189817, 3 October 2012, 682 SCRA 288, 306-307.

[41] G.R. No. 185011, 23 December 2009, 609 SCRA 304, 325.

[42] *Asiatico v. People*, G. R. No. 195005, 12 September 2011, 657 SCRA 443, 450 citing *People v. Quiamanlon*, G. R. No. 191198, 26 January 2011, 640 SCRA 697.

[43] *People v. Dela Rosa*, G. R. No. 185166, 26 January 2011, 640 SCRA 635, 650.

[44] *Zalameda v. People*, G. R. No. 183656, 4 September 2009, 598 SCRA 537, 556.

[45] *People v. Cruz*, G. R. No. 187047, 15 June 2011, 652 SCRA 286, 297-298.

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