

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE ALEX SECRETO Y VILLANUEVA, ACCUSED-APPELLANT.*G.R. No. 198115. February 27, 2013*

Ponente: PEREZ, J.

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Once again, we recite the well-settled rule that non-compliance with the procedures laid down in Republic Act No. 9165 (R.A. 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002, does not necessarily warrant the acquittal of the accused,[1] provided that when there is gross disregard of the prescribed safeguards, serious doubt arises as to the identity of the seized item presented in court,[2] for which reason, the prosecution cannot simply invoke the presumption of regularity in the performance of official duties[3] to justify the omissions. For, indeed, “a gross, systematic, or deliberate disregard of the procedural safeguards effectively produces an irregularity in the performance of official duties.”[4]

We review the Decision[5] dated 18 February 2011 of the Court of Appeals in CA-G.R. CR HC No. 02488, which affirmed in toto the Decision[6] dated 7 August 2006 of the Regional Trial Court, Branch 120, Caloocan City in Criminal Case Nos. C-68520 (03) and C-68521 (03). The trial court found accused-appellant guilty beyond reasonable doubt of illegal sale and illegal possession of methamphetamine hydrochloride (shabu) for which he was sentenced to suffer, among others, the severe penalty of life imprisonment.[7]

The Facts

In two (2) separate Informations[8] both dated 10 July 2003, accused-appellant was charged with illegal sale and illegal possession of shabu[9] before the Regional Trial Court of Caloocan City.

On 13 August 2003, accused-appellant pleaded not guilty.[10] During pre-trial, the court dispensed with the testimony of forensic chemist Police Inspector Erickson L. Calabocal (P/Insp. Calabocal), after the parties stipulated on the following:

1.

That the witness is an expert witness;

2.

That on July 10, 2003, [the witness’] office received a request for laboratory examination;

3.

That based on the request for laboratory examination x x x, he conducted a qualitative examination on two (2) heat-sealed transparent plastic sachets containing white crystalline substance with [the] following markings and recorded net weights: A (RLR-1) – 0.06 gram B (RLR-2 – 0.04 gram[);]

4.

That he recorded his findings in writing as evidenced by Physical Science Report No. D-700-03[;]

x x x x

[5.]

That the witness has no personal knowledge as to the facts and circumstances surrounding the arrest of the accused; and

[6.]

That the witness has no personal knowledge from whom the subject specimens were confiscated. That the result of examination is not accompanied by a Certification as required under Rule Sec. 21(3) of R.A. 9165.[11]

On trial, the prosecution presented the following: PO2 Loreto Lagmay[12] (PO2 Lagmay) and PO1 Randy Llanderal[13] (PO1 Llanderal), both of the District Anti-Illegal Drugs Special Operations Group (DAID-SOG), Tanique Street, Kaunlaran Village, Caloocan City. The defense, on the other hand, presented accused-appellant[14] and his mother Marietta Secreto.[15] Their respective testimonies were summarized by the appellate court in the following manner:

x x x x

From the prosecution's evidence, it is gathered that on 09 July 2003, a tipster gave information to the [O]ffice of the District Anti-Illegal Drugs Special Operations Group (DAID-SOG) about the drug trade of accused-appellant at Libis Espina, Caloocan City. A team went to the area and validated the report. They saw accused-appellant sell Methamphetamine Hydrochloride or "shabu" to three (3) persons. Consequently, a buy-bust operation was planned and immediately implemented on the same day.

At around 8:30 P.M., the team rode on tricycles and proceeded to the target area dressed in civilian clothes. Upon their arrival, the team saw accused-appellant standing in a corner near a small alley. Together with the informant, [PO2 Lagmay], acting as poseur-buyer, approached accused-appellant to buy shabu worth P100.00 and handed to the latter the marked money. Accused-appellant then gave PO2 Lagmay a small sachet of shabu. At once, PO2 Lagmay introduced himself as a police officer and placed accused-appellant under arrest while apprising him of the Miranda rights. PO2 Lagmay then ordered Secreto to empty his pockets and recovered the marked money as well as another sachet of shabu. PO2 Lagmay presented the recovered evidences to the team leader, SPO1 Edgar Pamor. At the DAID-SOG office, the seized items were surrendered to the investigator-on-duty, [PO1 Llanderal] who then instructed PO2 Lagmay to mark the sachet of shabu sold by accused-appellant as "RLR-1," and "RLR-2" for the other sachet that was confiscated from him. PO1 Llanderal took the sworn statements of the buy-bust team and likewise prepared the requests for laboratory examination of the seized items and for a drug test on accused-appellant.

At the crime laboratory, [P/Insp. Calabocal] examined the two (2) recovered sachets weighing six tenths (0.06) and four tenths (0.04) grams, respectively. Both were found positive for shabu, a dangerous drug. x x x

In his defense, accused-appellant denied ever having possessed, sold, or delivered shabu to PO2 Lagmay. He claimed that on 09 July 2003, he was drinking soft drinks with his friend, Bonet Soria when four (4) policemen suddenly arrested him. He was forcibly frisked but nothing illegal was found on him. The men also unlawfully entered his house looking for a certain Lito Ponga, a drug pusher in their area. His mother was surprised by the presence of the policemen in their house and she yelled at them. He was brought to the police station where he was manhandled and apprised of drug charges against him. Then the police demanded that he raise Twenty Thousand Pesos (P20,000.00) in exchange for his release and the dropping of the charge of illegal sale of dangerous drugs, but he had no money to pay them.

This narration was corroborated by his mother, Marietta. From their house, she heard the screams of accused-appellant as he was being arrested. She became hysterical especially when the policemen entered their house. She learned from her son that the police was demanding money from him. In fact, the policemen also went to her house and demanded the sum of Twenty Thousand Pesos (P20,000.00) so that the charge of Illegal Sale of Dangerous Drugs against her son will be dropped.[16]

After trial, the court found accused-appellant guilty beyond reasonable doubt of both crimes.[17]

The Court of Appeals affirmed in toto[18] the decision of the trial court. Hence, this appeal.

Our Ruling

The appeal is meritorious.

To secure a conviction for illegal sale of shabu, the following elements must be present: “(a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing.[19] It is material to establish that the transaction or sale actually took place, and to bring to the court the corpus delicti as evidence.[20] As to the crime of illegal possession of shabu, it is necessary to prove the following essential elements of the crime: “(a) the accused [was] in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession [was] not authorized by law; and (c) the accused freely and consciously possessed the drug.”[21] And, in the prosecution of these offenses, the primary consideration is to ensure that the identity and integrity of the seized drugs and other related articles has been preserved from the time they were confiscated from the accused until their presentation as evidence in court.[22]

We have time and again recognized, however, that a buy-bust operation resulting from the tip of an anonymous confidential informant, although an effective means of eliminating illegal drug-related activities, is “susceptible to police abuse.”[23] Worse, it is usually used as a means for extortion.[24] It is for this reason, that the Court must ensure that the enactment of R.A. 9165 providing specific procedures to counter these abuses[25] is not put to naught.

Thus, we carefully examined the pieces of evidence on record, read the testimonies of the witnesses for the prosecution and the defense, and took a final look on the following material points:

- 1) Accused-appellant testified in court that the buy-bust team arrested him outside his house while he was having a light conversation with a friend. He was forcibly frisked, and when nothing was recovered from him, the officer ordered, “[T]animan na yan.”[26] At the police station, PO2 Lagmay and his company demanded from him the amount of P50,000 later reduced to P20,000 – first, allegedly to bail him out in connection with the charge of illegal sale of shabu, which he did not know is actually a non-bailable offense,[27] and second, to drop the charge of illegal sale of shabu.[28] As he had no money, the police officers went back to his house and demanded the same amount from his mother. Frustrated with the outcome of their errand, one of the police officers allegedly even commented, “[W]alang kwentang kausap ang [n]anay mo.”[29] The narration of the circumstances surrounding the arrest and the allegation of extortion was corroborated by his mother. Both testimonies, as appearing in the transcript of stenographic notes, were consistent on all material points;
- 2) Contrary to the testimony of PO2 Lagmay that the team used two tricycles in the operation, the vehicle type issued to the team as reflected in the Pre-Operation Report dated 9 July 2003 supported the claim of accused-appellant that they boarded an owner-type jeep;
- 3) PO2 Lagmay testified that a civilian informant came to their office at around 7:00 o’clock in the evening of 9 July 2003 to report about the illegal peddling of shabu by one alias Alex at Libis Espina, Caloocan City. A buy-bust team was organized and dispatched at around 7:30 in the evening. However, the Pre-Operation

Report[30] appeared to have been issued for the surveillance and buy-bust operation against three different persons, namely, alias Boy, Tess, and Jun. Also, pursuant to the said report, the operation was to start at 1:00 o'clock in the afternoon of 9 July 2003. Interestingly, this was clearly ahead of the time the DAID-SOG supposedly received the information[31] from the confidential informant at 7:00 o'clock in the evening of the same day.

4) In *Reyes v. CA* earlier referred to, the prosecution failed to explain why only six officers out of the thirteen members of the team actually executed and signed the Joint Affidavit. There, the Court concluded, that such a failure "might indicate that the incrimination of [accused] through the buy-bust operation was probably not reliable." [32] In the present case, there were six listed in the Pre-Operation Report as part of the team but only three names, to wit, PO2 Lagmay, PO1 Ameng and PO1 Allan I. Reyes (PO1 Reyes) appeared on the face of the Pinagsamang Sinumpaang Salaysay.[33] Of the three only PO2 Lagmay and PO1 Ameng actually signed the document.

5) More telling are the contents of the Pinagsamang Sinumpaang Salaysay executed by PO2 Lagmay and PO2 Ameng, which are completely inconsistent with the testimony given by PO2 Lagmay when he later testified in court.

In their Pinagsamang Sinumpaang Salaysay, it was made clear that: (1) PO1 Ameng and PO1 Reyes were the ones who caught accused-appellant; while (2) PO2 Lagmay frisked the suspect and recovered from the latter's right pocket the buy-bust money together with another sachet containing white crystalline substances. Thus:

x x x Na matapos kong suriin ito at sa paniniwala ko (PO2 Lagmay) na ito ay Shabu ay kaagad kong seneniyasahan (sic) ang aking mga kasamahan sabay pakilalang mga pulis kami at siya ay aming hinuhuli. Na kami (PO1 Ameng at PO1 Reyes) ay agad naman naming nahawakan at nahuli ang suspek. Na ng kapkapan ko (PO2 Lagmay) ang suspek ay nakuha ko sa kanang bulsa ng suot niyang short pant na maong ang buy-bust money na Isandaang Piso at isang pang pirasong maliit na plastic na naglalaman ng maliliit na kristal na sa paniniwala ko rin na ito ay Shabu.[34] x x x (Emphasis, italics and underscoring supplied)

PO2 Lagmay, however, gave a different version when he testified in court. First, he claimed that it was he who arrested the accused-appellant. Thus:

Q:

After that what then did you do after you were able to buy shabu?

A:

I introduced myself as police officer and arrested him, sir.

Q:

What about the pre-arranged signal?

A:

My pre-arranged signal by scratching my head, sir.

Q:

And then you introduced yourself as police officer and arrested him?

A:

Yes, sir.

Q:

How did you arrest him?

A:

I held his hand, sir.

Q:

And then?

A:

And I told him “Mga pulis kami”, sir.[35] (Emphasis supplied)

Second, contrary to his statement in the Pinagsamang Sinumpaang Salaysay that he frisked accused-appellant and recovered the seized items from the latter’s pocket, PO2 Lagmay testified on cross-examination that he ordered the accused-appellant to empty his pocket, viz:

Q:

And then you introduced yourself as policeman?

A:

Yes, sir.

Q:

And you even used the word “Mga Pulis kami”?

A:

Yes, sir.

Q:

After that you did not say anything?

A:

Yes, sir.

Q:

You are not certain about that?

A:

I told him mga pulis kami, I ordered him to pull out his pocket, x x x.[36]

More than the foregoing omissions and inconsistencies in the testimony of the witness for the prosecution, serious uncertainty arises as to the integrity and the evidentiary value of the shabu allegedly confiscated from the accused-appellant.

The arbitrariness in the identification and eventual marking of seized items, when the life and liberty of a person are at stake, is quite alarming. PO2 Lagmay, on cross examination, testified how he was able to identify the sachet he bought from the other sachet retrieved from the pocket of the pants of accused-appellant. The explanation of

how he identified each of the seized items at the police station, after confiscating the two sachets and the marked money all with his right hand without comparing the one bought from the one in possession of the accused-appellant, and after the same transferred hands from PO2 Lagmay to SPO1 Edgar Pamor (SPO1 Pamor) to the former again was unacceptable. Thus:

Q:

That plastic sachet that you bought from Alex, you did not put that in your pocket because you immediately scratched your head?

A:

Yes, sir.

Q:

And up to the time that you uttered[, “[A]lex you retrieved (sic) whatever [is] on your right pocket[,]”] you were still holding that plastic sachet?

A:

Yes, sir.

Q:

But seeing that there is another plastic sachet allegedly in the pocket of Alex you retrieved that together with the P100.00?

A:

Yes, sir.

Q:

And again that same right hand was used by you in taking that?

A:

Yes, sir.

Q:

And so in other words you were now holding the two plastic sachets and the P100.00 bill in your right hand?

A:

Yes, sir.

Q:

And again that same right hand was used by you in taking that?

A:

Yes, sir.

Q:

So in other words, you were now holding the two (2) plastic sachets and the P100.00 bill in your right hand?

A:

Yes, sir.

Q:

Where did you bring that after?

A:

I gave it to the Team leader SPO1 Pamor, sir.

Q:

That was in Libis Espina?

A:

Yes, sir.

x x x x

Q:

And the last thing that you told your team leader Pamor was to retrieve the two (2) plastic sachets and P100.00 bills?

A:

Yes, sir.

Q:

And that was in DAID office?

A:

Yes, sir.

x x x x

Q:

These two (2) plastic sachets were not very familiar if there were no markings as RLR-1 and RLR-2, will you be able to identify the alleged buy bust money and the alleged I (sic) plastic sachet recovered?

A:

Yes, sir.

Q:

And how?

A:

The two had letters that fit the plastic sachet, the one I bought from him, sir.

Q:

Did you compare the two at that time you confiscated the two (2) from the accused?

A:

Nasalat na lang po, sir.

Q:

But you did not compare?

A:

No, sir.[37] (Emphasis supplied)

Obviously the steps outlined in Section 21(a), Article II of the Implementing Rules and Regulations of RA 9165 to ensure the integrity and evidentiary value of the evidence of corpus delicti were not followed. That being the case, it is necessary for the prosecution to show that inspite of the non-observance of the requirements in Section 21(a), Article II of the Implementing Rules and Regulations of RA 9165, the integrity and evidentiary value of the seized items were nonetheless preserved. This was not done in this case. The prosecution failed to show how SPO1 Pamor ensured the integrity of the seized items from the time it was entrusted to him at the place of confiscation until the team reached the police station[38] until he eventually handed them over again to PO2 Lagmay for the marking of the sachets. Neither did the prosecution show to whom the confiscated articles were turned over and the manner they were preserved after the laboratory examination and until their final presentation in court as evidence of the corpus delicti.[39] Clearly, these lapses raise doubt on the integrity and identity of the drugs presented as evidence in court.[40]

Further, on the basis of the testimony of PO2 Lagmay, the confiscated items were not immediately marked at the scene of the crime. More significantly, although these items were allegedly marked in the police station, there was no showing that it was done in the presence of the accused-appellant or his chosen representative.[41] Thus:

Q:

What then did you do with the evidence you recovered and bought and the person of alias Alex?

A:

We brought him in our office, sir.

Q:

To whom did you turn over the person and the evidence?

A:

To the investigator PO1 Llanderal, sir.

Q:

What did Llanderal do with the shabu you recovered and bought?

A:

I submitted the same for laboratory examination, sir.

Q:

What did PO1 Llanderal do other than submitting it before the PNP Crime Laboratory?

A:

Together with the plastic sachets, he told me to place my initial, sir.

Q:

What initial did you place?

A:

RLR, sir.

x x x x

Q:

There are two (2) sachets, the one you bought and the one you recovered, the one you bought what is the initial?

A:

The one I bought is RLR-1, the one I recovered was RLR-2, sir.[42]

In *People v. Sanchez*,^[43] the Court had the occasion to emphasize the necessity of marking the evidence in the presence of the apprehended violator and immediately upon confiscation. It ratiocinated:

x x x x

What Section 21 of R.A. No. 9165 and its implementing rule do not expressly specify is the matter of “marking” of the seized items in warrantless seizures to ensure that the evidence seized upon apprehension is the same evidence subjected to inventory and photography when these activities are undertaken at the police station rather than at the place of arrest. Consistency with the “chain of custody” rule requires that the “marking” of the seized items – to truly ensure that they are the same items that enter the chain and are eventually the ones offered in evidence – should be done (1) in the presence of the apprehended violator (2) immediately upon confiscation. This step initiates the process of protecting innocent persons from dubious and concocted searches, and of protecting as well the apprehending officers from harassment suits based on planting of evidence under Section 29 and on allegations of robbery or theft.^[44] (Emphasis and underscoring supplied; Citations omitted)

It is also clear from the foregoing that aside from the markings that PO2 Lagmay alleged to have been made in the presence of PO1 Llanderal, who did not testify on this point, the buy-bust team did not observe the procedures laid down in Section 21(a) of the Implementing Rules and Regulations of R.A. 9165.^[45] They did not conduct a physical inventory and no photograph of the confiscated item was taken in the presence of the accused-appellant, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official.^[46] In fact, the prosecution failed to present an accomplished Certificate of Inventory.

In *People v. Ancheta*,^[47] where the sole procedural lapse revolved on the failure to conduct the required physical inventory and the taking of photograph in the presence of the representatives and public officials enumerated in the law despite the fact that the accused had been under surveillance and his name already on the drugs watch list, we ruled:

x x x We further note that, before the saving clause provided under it can be invoked, Section 21(a) of the IRR requires the prosecution to prove the twin conditions of (a) existence of justifiable grounds and (b) preservation of the integrity and the evidentiary value of the seized items. In this case, the arresting officers neither presented nor explained justifiable grounds for their failure to (1) make a physical inventory of the seized items; (2) take photographs of the items; and (3) establish that a representative each from the media and the Department of Justice (DOJ), and any elected public official had been contacted and were present during the

marking of the items. These errors were exacerbated by the fact that the officers had ample time to comply with these legal requirements, as they had already monitored and put accused-appellants on their watch list. The totality of these circumstances has led us to conclude that the apprehending officers deliberately disregarded the legal procedure under R.A. 9165. “These lapses effectively produced serious doubts on the integrity and identity of the corpus delicti, especially in the face of allegations of frame-up” Accused-appellants would thereby be discharged from the crimes of which they were convicted.[48] (Emphasis supplied)

Here, the circumstances obtaining from the time the buy-bust team was organized until the chain of custody commenced were riddled with procedural lapses and inconsistencies between the testimony and the documents presented as evidence in court so much so that even assuming, that the physical inventory contemplated in R.A. 9165 subsumes the marking of the items itself, the belated marking of the seized items at the police station sans the required presence of the accused and the witnesses enumerated under Sec. 21(a) of the Implementing Rules and Regulations of R.A. 9165, and, absent a justifiable ground to stand on, cannot be considered a minor deviation from the procedures prescribed by the law. There being a “gross, systematic, or deliberate disregard of the procedural safeguards” the presumption of regularity in the performance of official duties is overturned.[49]

Above all, against these serious procedural lapses lies the glaring fact that, other than the stipulation of the parties during pre-trial on the receipt of the specimen and the results of the test conducted thereon, and the testimony of PO1 Llanderal, which was limited to the subject on the preparation of the request for the conduct of a drug test on accused-appellant and the Pre-Coordination Report to the PDEA, PO2 Lagmay’s “testimony and the evidence he [alone] identified [in court] constitute the totality of the evidence for the prosecution on the handling of the allegedly seized items.”[50] We cannot, therefore, hold that the guilt of the accused-appellant has been proven beyond reasonable doubt. The constitutional right of the accused-appellant to be presumed innocent[51] must prevail.

WHEREFORE, we REVERSE and SET ASIDE the Decision dated 18 February 2011 of the Court of Appeals in CA-G.R. CR HC No. 02488. Accused-appellant Jose Alex Secreto y Villanueva is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately RELEASED from detention, unless he is confined for another lawful cause.

Let a copy of this decision be furnished the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court the action taken thereon within five (5) days from receipt of this Decision.

SO ORDERED.

Carpio, (Chairperson), Abad,[*] Mendoza,**] and Perlas-Bernabe, JJ., concur.

[*] Additional member per raffle dated 25 February 2013.

[**] Designated acting member per Special Order No. 1421 dated 20 February 2013.

[1] People v. Ulama, G.R. No. 186530, 14 December 2011, 662 SCRA 599, 612; People v. Ancheta, G.R. No. 197371, 13 June 2012 citing People v. Umipang, G.R. No. 190321, 25 April 2012, 671 SCRA 324, 355.

[2] People v. Garcia, G.R. No. 173480, 25 February 2009, 580 SCRA 259, 277.

[3] Id.

[4] People v. Umipang, G.R. No. 190321, 25 April 2012, 671 SCRA 324, 355 citing People v. Garcia, supra note

2 at 266-267.

[5] CA rollo, pp. 87-95. Penned by Associate Justice Manuel M. Barrios with Associate Justices Rosmari D. Carandang and Ramon R. Garcia concurring.

[6] Records, pp. 147-155. Penned by Judge Oscar P. Barrientos.

[7] Id. at 154. Decision dated 7 August 2006.

[8] The accusatory portion of the Information docketed as Criminal Case No. C-68520 (03) reads:

“That on or about the 9[th] day of July 2003, in the City of Caloocan, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, [Jose Alex Secreto y Villanueva] being private person and without authority of law, did then and there, willfully, unlawfully and feloniously in consideration of the amount of P100.00, Philippines Currency, sell and distribute to a Police Agent who posed as buyer, one (1) heat-sealed transparent plastic sachets containing white crystalline substance marked RLR-1, weighing 0.06 gram, which substance when subjected to chemistry examination gave positive results for Methamphetamine Hydrochloride otherwise known as “Shabu” which is a dangerous drug.”

Id. at 1.

The accusatory portion of the Information docketed as Criminal Case No. C-68521 (03) reads:

“That on or about the 9[th] day of July 2003, in the City of Caloocan, Philippines and within the jurisdiction of this Honorable Court, [Jose Alex Secreto y Villanueva] being private person and without being authorized by law, did then and there, willfully, unlawfully and feloniously have in his possession, custody and control one (1) small heat-sealed transparent sachet containing white crystalline substance weighing 0.04 gram, which substance when subjected to chemistry examination gave positive results for Methamphetamine Hydrochloride otherwise known as “shabu”, a dangerous drug.”

Id. at 11.

[9] In connection with the illegal sale of shabu, Section 5, Article II, R.A. 9165 provides:

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

x x x x

The illegal possession of shabu is covered by Section 11, Article II, R.A. 9165, which provides:

Section 11. Possession of Dangerous Drugs. - x x x

x x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

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 x x x methamphetamine hydrochloride or "shabu", or other dangerous drugs x x x.

[10] Records, p. 26. Order dated 13 August 2003.

[11] Id. at 36-37. Pre-Trial Order dated 23 September 2003.

[12] TSN, 14 April 2008.

[13] Id. at 18-19; TSN, 25 April 2005, pp. 1-3.

[14] TSN, 3 October 2005, pp. 1-24.

[15] Id. at 25-35.

[16] CA rollo, pp. 89-91. Decision dated 18 February 2011 of the Court of Appeals.

[17] Records, pp. 147-155. Decision dated 7 August 2006.

The dispositive portion of the Decision reads:

Premises considered, the [c]ourt finds and so holds that accused Jose Alex Secreto y Villanueva GUILTY beyond reasonable doubt for violation of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drug Act of 2002, and imposes upon him the following:

- In Criminal Case No. C-68520 for Violation of Section 5, Article II, likewise against Jose Alex Secreto y Villanueva the penalty of LIFE IMPRISONMENT and a fine of Five Hundred Thousand Pesos (Php500,000.00); and

- In Criminal Case No. C-68521 for Violation of Section 11, Article II, against Jose Alex Secreto the indeterminate penalty of imprisonment of Six (6) years and One (1) day to Twelve (12) years and a fine of three Hundred Thousand Pesos (Php300,000.00).

x x x x

[18] CA rollo, p. 104. Decision dated 18 February 2011 of the Court of Appeals.

[19] People v. Bautista, G.R. No. 177320, 22 February 2012, 666 SCRA 518, 529.

[20] Id. at 529-530 citing People v. Naquita, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 449; People v. del Monte, G.R. No. 179940, 23 April 2008, 552 SCRA 627, 637-638; People v. Santiago, G.R. No. 175326, 28 November 2007, 539 SCRA 198, 212.

[21] Id. citing People v. Naquita, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 451

[22] Reyes v. CA, G.R. No. 180177, 18 April 2012, 670 SCRA 148, 159.

[23] People v. Garcia, supra note 2 at 267.

[24] Id.

[25] One of the procedural safeguards embodied in Article II, of R.A. 9165, reads:

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; (Emphasis supplied)

[26] TSN, 3 October 2005, p. 4.

[27] Id. at 7.

[28] Id. at 9.

[29] Id. at 24.

[30] Records, p. 140. Pre-operation Report dated 9 July 2003, DAID Preop Control No. 03-7-9-043.

[31] See Reyes v. CA, supra note 22 at 163.

[32] Id. at 164.

[33] Id. at 131-134.

[34] Id. at 131.

[35] TSN, 23 August 2004, pp. 6-7.

[36] Id. at 15.

[37] TSN, 23 August 2004, pp. 16-17.

[38] People v. Relato, G.R. No. 173794, 18 January 2012, 663 SCRA 260, 270.

[39] Reyes v. CA, supra note 22 at 163.

[40] Id.

[41] See People v. Relato, supra note 38 at 268.

[42] TSN, 23 August 2004, p. 8.

[43] G.R. No. 175832, 15 October 2008, 569 SCRA 194.

[44] Id. at 218-219.

[45] 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. — x x x:

(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; (Emphasis supplied.)

[46] See *Reyes v. CA*, supra note 22 at 161.

[47] G.R. No. 197371, 13 June 2012.

[48] Id. citing *People v. Umipang*, supra note 4.

[49] Id.

[50] *People v. Sanchez*, supra note 43 at 211.

[51] Id. at 222.

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