

CARLITO VALENCIA Y CANDELARIA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.*G.R. No. 198804. January 22, 2014*

Ponente: REYES, J.

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Before this Court is a petition for review on certiorari[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[2] dated May 25, 2011 and the Resolution[3] dated September 26, 2011 of the Court of Appeals (CA) in CA-G.R. CR No. 33194. The CA affirmed with modification the Decision[4] dated February 18, 2010 of the Regional Trial Court (RTC) of Caloocan City, Branch 127 in Criminal Case No. C-75090 finding Carlito Valencia y Candelaria (Valencia) guilty beyond reasonable doubt of the offense of possession of dangerous drugs, punished under Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Facts

Valencia was charged in an Information with illegal possession of dangerous drugs under Section 11, Article II of R.A. No. 9165, docketed as Criminal Case No. C-75090 before the RTC, viz:

That on or about the 8[th] day of April 2006, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without having authorized by law, did then and there wilfully, unlawfully and feloniously, have in his possession, custody and control two (2) small heat-sealed transparent plastic sachet containing white crystalline substance weighing 0.02 gram, 0.02 gram of METHYLAMPHETAMINE HYDROCHLORIDE (Shabu), a dangerous drug, when subjected for chemistry examination gave positive result of METHYLAMPHETAMINE HYDROCHLORIDE, knowing the same to be such.

CONTRARY TO LAW.[5] (Citation omitted)

Upon arraignment on March 10, 2006, Valencia pleaded “not guilty” to the offense charged.[6]

Version of the Prosecution

On April 7, 2006, Police Superintendent (P/Supt.) Napoleon L. Cuaton (Cuaton), the Officer-in-Charge of the Station Anti-Illegal Drugs–Special Operation Unit, Caloocan City Police Station, received a call from a concerned citizen regarding the rampant sale of illegal drugs in Barangay 18, Caloocan City. Thus, P/Supt. Cuaton organized a team, composed of several police officers headed by Police Officer 3 (PO3) Ferdinand Modina (Modina), to conduct surveillance and a possible buy-bust operation in the said area. The team immediately proceeded to the target area.[7]

On April 8, 2006, at around one o’clock in the morning, the team arrived at Barangay 18, Caloocan City. PO3 Modina and PO2 Joel Rosales (Rosales) alighted from their vehicle and approached a group of six persons playing cara y cruz; PO3 Modina posed as a bettor. While watching the game, PO3 Modina saw a man, later

identified to be Valencia, place a plastic sachet containing a white crystalline substance as a bet. Thereupon, PO3 Modena introduced himself as a police officer, confiscated the plastic sachet, and arrested Valencia. The other persons who were playing cara y cruz scampered away.[8]

When asked to empty his pockets, Valencia brought out another transparent plastic sachet containing white crystalline substance from his right pocket. PO3 Modena then apprised Valencia of his constitutional rights. Valencia was then brought to the police station, together with the confiscated transparent plastic sachets containing white crystalline substance.[9]

At the police station, the two plastic sachets that were confiscated from Valencia were turned over to PO2 Randolph Hipolito (Hipolito) for investigation. The plastic sachets were then marked by PO2 Hipolito as "CVC-1" and "CVC-2" and were placed in a sachet marked "SAID SOU EVIDENCE dtd 04-08-06." PO2 Hipolito then prepared the request to the Philippine National Police (PNP) Crime Laboratory for the examination of the contents of the plastic sachets that were confiscated from Valencia.[10]

Upon examination, the white crystalline substance contained in the plastic sachets confiscated from Valencia yielded a positive result for Methamphetamine Hydrochloride or shabu.[11]

Version of the Defense

Valencia denied the allegations against him. He claimed that, at the time of the incident, he was standing in front of his house when several men came running from an alley. Thereupon, he saw that two of his neighbors were already handcuffed and are already being escorted by three (3) armed men clad in civilian clothes. One of the armed men then asked him if he knew where a certain "Fe" resides. When Valencia told them that he did not know where "Fe" resides, the armed men brought him to the police station together with his two neighbors.[12]

At the police station, Valencia was immediately placed in a cell. When he asked the reason for his detention, the police officers told him "samahan mo na lang ang dalawa." [13] Thereafter, the police officers demanded from Valencia and his two neighbors, who were also detained, the amount of P5,000.00 each. When Valencia failed to pay the said amount, he was charged with possession of dangerous drugs under Section 11, Article II of R.A. No. 9165; his two neighbors were however released from detention upon payment of the said amount.[14]

Ruling of the RTC

On February 18, 2010, the RTC rendered a Decision[15] finding Valencia guilty beyond reasonable doubt of the offense of possession of dangerous drugs under Section 11, Article II of R.A. No. 9165, viz:

WHEREFORE, premises considered, judgment is hereby rendered declaring Accused CARLITO VALENCIA y CANDELARIA GUILTY BEYOND REASONABLE DOUBT of the offense of Violation of Section 11, Art. II. R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. Accordingly, this Court hereby sentences him to suffer an imprisonment of Twelve (12) years and one (1) day as the minimum to Seventeen (17) years and Eight (8) months as the maximum and to pay the fine of Three hundred thousand pesos ([P]300,000.00).

The subject drug subject matter of this case is hereby ordered confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.[16]

Ruling of the CA

Valencia appealed, claiming that the RTC erred in finding him guilty as charged. He insists that the prosecution failed to show an unbroken chain of custody of the seized dangerous drug in violation of Section 21 of R.A. No. 9165.[17]

On May 25, 2011, the CA rendered the herein assailed Decision[18] which affirmed the RTC's Decision dated February 18, 2010. The CA ruled that, contrary to Valencia's claim, the prosecution was able to show an unbroken chain of custody of the seized dangerous drug. Thus:

The prosecution's evidence convincingly demonstrated the unbroken chain of custody of the seized drugs beginning from the arresting officers, to the investigating officer, then to the forensic chemist, until such time that they were offered in evidence before the court a quo. The plastic sachets seized were not tampered with or switched before the same were delivered to and chemically examined by the forensic chemist. Perforce, all persons who obtained and received the plastic sachets did so in the performance of their official duties. Appellants adduced not a speck of proof to overthrow the presumption that official duty was regularly performed.

x x x x

WHEREFORE, the Appeal is hereby DENIED. The Decision of conviction dated 18 February 2010 of the Regional Trial Court of Caloocan City, Branch 127, in Criminal Case No. C-75090, is AFFIRMED.

SO ORDERED.[19]

Valencia sought a reconsideration[20] of the Decision dated May 25, 2011, but it was denied by the CA in its Resolution[21] dated September 26, 2011.

Issue

Essentially, the issue presented for the Court's resolution is whether the CA erred in affirming Valencia's conviction for the offense of possession of dangerous drugs under Section 11, Article II of R.A. No. 9165.

The Court's Ruling

The petition is meritorious.

Section 11, Article II of R.A. No. 9165 pertinently provides that:

Sec. 11. Possession of Dangerous Drugs. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos ([P]500,000.00) to Ten million pesos ([P]10,000,000.00) 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

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 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 three hundred (300) grams or more but less than five hundred (500) grams of marijuana.

The elements of the offense of illegal possession of dangerous drugs, are the following: first, the accused was in possession of an item or object, which is identified to be a prohibited or dangerous drug; second, such possession

was not authorized by law; and third, the accused freely and consciously possessed the drug.[22]

In the prosecution of illegal possession of dangerous drugs, the dangerous drug itself constitutes the very corpus delicti of the offense and, in sustaining a conviction therefor, the identity and integrity of the corpus delicti must definitely be shown to have been preserved. This requirement necessarily arises from the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise. Thus, to remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused-appellant; otherwise, the prosecution for illegal possession of dangerous drugs under R.A. No. 9165 fails.[23]

There must be strict compliance with the prescribed measures to be observed during and after the seizure of dangerous drugs and related paraphernalia, during the custody and transfer thereof for examination, and at all times up to their presentation in court.[24] In this regard, Section 21, Article II of R.A. No. 9165 outlines the procedure to be observed by the apprehending officers in the seizure and custody of dangerous drugs, viz:

Sec. 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;

x x x x (Emphasis ours)

Further, Section 21(a), Article II of the Implementing Rules and Regulations of R.A. No. 9165 similarly provides that:

Sec. 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated 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;

x x x x (Emphasis ours)

The rule on chain of custody under the foregoing enactments expressly demands the identification of the persons who handle the confiscated items for the purpose of duly monitoring the authorized movements of the illegal drugs and/or drug paraphernalia from the time they are seized from the accused until the time they are presented in court.[25] Moreover, as a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered in evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then 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 same.[26]

Crucial in proving the chain of custody is the marking of the seized drugs or other related items immediately after they are seized from the accused.[27] In *People v. Gonzales*,[28] the Court explained that:

The first stage in the chain of custody rule is the marking of the dangerous drugs or related items. Marking, which is the affixing on the dangerous drugs or related items by the apprehending officer or the poseur-buyer of his initials or signature or other identifying signs, should be made in the presence of the apprehended violator immediately upon arrest. The importance of the prompt marking cannot be denied, because succeeding handlers of dangerous drugs or related items will use the marking as reference. Also, the marking operates to set apart as evidence the dangerous drugs or related items from other material from the moment they are confiscated until they are disposed of at the close of the criminal proceedings, thereby forestalling switching, planting or contamination of evidence. In short, the marking immediately upon confiscation or recovery of the dangerous drugs or related items is indispensable in the preservation of their integrity and evidentiary value.[29] (Emphasis ours)

To prove the chain of custody of the seized plastic sachets, which were confiscated from Valencia, the prosecution presented PO3 Modina, who testified that:

PROS. GALLO:

Q.

And what happened to the shabu which the accused placed as his bet?

WITNESS:

A.

When I introduced myself as a policeman I took the shabu, ma'am.

Q.

If that shabu which you confiscated will be seen by you again, will you be able to identify the same?

A.

Yes, ma'am.

Q.

How will you be able to identify?

A.

Because of the markings, ma'am.

Q.

What marking are you referring to?

A.

CV[C]-1 and CV[C]-2, ma'am.

x x x x

PROS. GALLO:

Q.

Now, Mr. Witness, what did you do after you asked the accused to bring out the contents of his pocket which yielded another plastic sachet?

WITNESS:

A.

I apprised him of his constitutional rights and boarded him to our vehicle and brought him to our office, ma'am.

Q.

What happened now to the plastic sachet marked CVC-2?

A.

I was in possession of the plastic sachets including the plastic sachet which he placed as a bet, ma'am.

x x x x

Q.

And what did you do next?

A.

We proceeded to our office, ma'am.

Q.

What did you do upon arrival at your office?

A.

We turned over the accused to the investigator including the shabu I recovered, ma'am.

Q.

Was there any document evidencing the turn over of the person of the accused and the two plastic sachets you recovered from the possession of the accused?

A.

Yes, ma'am, the evidence acknowledge (sic) receipt.

x x x x

Q.

Did you come to know what happened to the plastic sachets you turned over to PO2 Hipolito?

A.

PO2 Hipolito made a request addressed to crime laboratory, ma'am.

Q.

Did you see that document?

A.

Yes, ma'am.

Q.

How about the result, have you seen the result?

A.

Yes, ma'am.

Q.

What was the result?

A.

Positive for Methylamphetamine Hydrochloride, ma'am.[30]

On the other hand, PO2 Rosales testified that

Q.

Who marked these two plastic sachets CVC-1 and CVC-2?

A.

The investigator, ma'am.

Q.

Who turned over to the investigator CVC-1?

A.

PO3 Modina, ma'am.

Q.

How about CVC-2?

A.

I was the one, ma'am.

Q.

Who was in possession of CVC-1 from the time it was recovered from accused by PO3 Modina up to the time it was turned over to the investigator?

A.

PO3 Modina, ma'am.

Q.

How about the item CVC-2 when you said it was handed to you by the accused at the place of the incident until it was turned over to the investigator and marked by him, who was in possession thereof?

A.

Me, ma'am.

Q.

At that time, was there any other apprehension that you conducted?

A.

None, ma'am.

THE COURT: x x x

Q.

Were you present when the investigator put the marking on the specimen?

THE WITNESS:**A.**

Yes, your Honor. When it was handed by PO3 Modina it was marked by the investigator.[31]

A perusal of the foregoing testimonies of PO3 Modina and PO2 Rosales shows that there are significant lapses in the chain of custody of the plastic sachets that were confiscated from Valencia. Indeed, while the prosecution was able to prove that the two plastic sachets containing white crystalline substance that were confiscated from Valencia were marked as “CVC-1” and “CVC-2” by PO2 Hipolito, after the same were turned over to him at the police station for investigation, there was no showing that the marking had been done in the presence of Valencia or his representatives.

Further, although PO3 Modina testified that he turned over the said plastic sachets to PO2 Hipolito, who subsequently made the request for examination of the contents of the plastic sachet, it was not clear who actually brought the plastic sachets to the PNP Crime Laboratory for examination. It is likewise unclear who actually received the confiscated plastic sachets in the PNP Crime Laboratory and who exercised custody and possession of the same after it was examined and before it was presented before the RTC.

Verily, the records are bereft of any evidence, which would clearly show that the said plastic sachets were indeed marked in the presence of Valencia. Nor was there any evidence as to the identity of the individual who brought the seized plastic sachets from the police station to the PNP Crime Laboratory for examination. That the plastic sachets that were confiscated from Valencia were not marked in his presence or that of his representative and the indeterminateness of the identities of the individuals who had actually taken custody of the plastic sachets effectively broke the chain of custody, which thus taints the integrity of the sachets of shabu that were presented before the RTC. The foregoing lapses create reasonable doubt as to whether the plastic sachets containing white crystalline substance that were presented before the RTC are the same ones that were confiscated from Valencia.

In Gonzales,[32] the Court acquitted the accused for the failure of the prosecution to prove that the arresting officers therein had marked the confiscated sachet of shabu in the presence of the accused and its failure to identify the individual who brought the sachet of shabu to the PNP Crime Laboratory. The foregoing circumstances, the Court ruled, are fatal to the prosecution’s case, viz:

Although PO1 Dimla, the State’s lone witness, testified that he had marked the sachet of shabu with his own initials of “ED” following Gonzales’ arrest, he did not explain, either in his court testimony or in the joint affidavit of arrest, whether his marking had been done in the presence of Gonzales, or done immediately upon the arrest of Gonzales. Nor did he show by testimony or otherwise who had taken custody of the sachet of shabu after he had done his marking, and who had subsequently brought the sachet of shabu to the police station, and, still later on, to the laboratory. Given the possibility of just anyone bringing any quantity of shabu to the laboratory for examination, there is now no assurance that the quantity presented here as evidence was the same article that had been the subject of the sale by Gonzales. The indeterminateness of the identities of the individuals who could have handled the sachet of shabu after PO1 Dimla’s marking broke the chain of custody, and tainted the integrity of the shabu ultimately presented as evidence to the trial court. We hardly need to reiterate that the chain of custody, which Section 1(b) of DDB Regulation No. 1, Series of 2002, *supra*, explicitly describes as “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,” demands such record of movements and custody of seized items to include the identities and signatures of the persons who held temporary custody of the seized item, the dates and times when such transfers of custody were made in the course of safekeeping and use in court as evidence, and the final

disposition.[33] (Citations omitted and emphasis ours)

Similarly, in *Fajardo v. People*,^[34] the prosecution failed to establish that the plastic sachets containing shabu were marked in the presence of the accused therein; the individual who actually brought the confiscated plastic sachets to the PNP Crime Laboratory for examination was also not identified by the prosecution. The Court likewise acquitted the accused therein, ruling that:

Another phase of the first link to the chain of custody is the marking of seized items. The rule requires that it should be done in the presence of the apprehended violator and immediately upon confiscation to ensure that they are the same items that enter the chain and are eventually the ones offered in evidence. Evidently, the marking was not done at the scene of the crime. In fact, PO1 Bernardo testified that it was an investigator of the crime laboratory, whose name he cannot recall, who made the markings. Indeed, PO1 Bernardo could not explain the actual markings.

The prosecution miserably failed to establish the crucial first link in the chain of custody. The plastic sachets, while tested positive for shabu, could not be considered as the primary proof of the corpus delicti because the persons from whom they were seized were not positively and categorically identified by prosecution witnesses. The prosecution likewise failed to show how the integrity and evidentiary value of the item seized had been preserved when it was not explained who made the markings, how and where they were made.

x x x x

The third link in the chain should detail who brought the seized shabu to the crime laboratory, who received the shabu at the crime laboratory and, who exercised custody and possession of the shabu after it was examined and before it was presented in court. Once again, these crucial details were nowhere to be found in the records. PO2 Tugo allegedly brought them to the crime laboratory but he was not presented to affirm and corroborate PO1 Tuscano's statement, nor was any document shown to evidence the turnover of the seized items. The Request for Laboratory Examination was signed by a certain Police Senior Inspector Rodolfo Tababan. But his participation in the custody and handling of the seized items were never mentioned by the prosecution witnesses.

Considering these huge discrepancies in the chain of custody, the claim of regularity in the conduct of police operation will certainly not hold water. It bears stressing that the presumption of regularity only arises in the absence of contradicting details that would raise doubts on the regularity in the performance of official duties. Where the police officers failed to comply with the standard procedure prescribed by law, there is no occasion to apply the presumption.[35] (Citations omitted and emphases supplied)

Although the Court has ruled that non-compliance with the directives of Section 21, Article II of R.A. No. 9165 is not necessarily fatal to the prosecution's case,^[36] the prosecution must still prove that (a) there is a justifiable ground for the non-compliance, and (b) the integrity and evidentiary value of the seized items were properly preserved.^[37] Further, the non-compliance with the procedures must be justified by the State's agents themselves.^[38] The arresting officers are under obligation, should they be unable to comply with the procedures laid down under Section 21, Article II of R.A. No. 9165, to explain why the procedure was not followed and prove that the reason provided a justifiable ground. Otherwise, the requisites under the law would merely be fancy ornaments that may or may not be disregarded by the arresting officers at their own convenience.^[39]

Thus, in *People v. Almorfe*,^[40] the Court stressed that:

Respecting the team's non-compliance with the inventory, not to mention the photograph, requirement of R.A. No. 9165, the same does not necessarily render void and invalid the seizure of the dangerous drugs. There must, however, be justifiable grounds to warrant exception therefrom, and provided that the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/s.

For the saving clause to apply, it is important that the prosecution should explain the reasons behind the procedural lapses and that the integrity and value of the seized evidence had been preserved:

x x x [N]on-compliance with the strict directive of Section 21 of R.A. No. 9165 is not necessarily fatal to the prosecution's case; police procedures in the handling of confiscated evidence may still have lapses, as in the present case. These lapses, however, must be recognized and explained in terms of their justifiable grounds and the integrity and evidentiary value of the evidence seized must be shown to have been preserved.[41] (Citations omitted and emphasis ours)

The arresting officers in this case tendered no justification in court for their non-compliance with the procedures. Indeed, a thorough perusal of the records of this case yielded no result as to any explanation or justification tendered by the apprehending officers as regards their non-compliance with the procedures laid down under Section 21, Article II of R.A. No. 9165. It was thus a grave error for the RTC and the CA to rule that there was an unbroken chain of custody despite the failure of the arresting officers to mark the confiscated plastic sachets in the presence of Valencia and to identify all the individuals who took custody of the same from the time the said plastic sachets were confiscated until the time they were presented in the RTC.

WHEREFORE, in consideration of the foregoing disquisitions, the Decision dated May 25, 2011 and the Resolution dated September 26, 2011 of the Court of Appeals in CA-G.R. CR No. 33194, which affirmed the Decision dated February 18, 2010 of the Regional Trial Court of Caloocan City, Branch 127, is hereby REVERSED and SET ASIDE. The petitioner Carlito Valencia y Candelaria is hereby ACQUITTED for the failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered to be immediately RELEASED from detention, unless he is being detained for some other lawful cause.

The Director of the Bureau of Corrections is DIRECTED to IMPLEMENT this Decision and to report to this Court the action taken hereon within five (5) days from receipt.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 10-24.

[2] Penned by Associate Justice Japar B. Dimaampao, with Presiding Justice Andres B. Reyes, Jr. and Associate Justice Jane Aurora C. Lantion, concurring; id at 30-41.

[3] Id. at 43-44.

[4] Issued by Judge Victoriano B. Cabanos; records, pp. 149-156.

[5] Rollo, pp. 30-31.

[6] Records, p. 149.

[7] Rollo, p. 82.

[8] Id. at 68.

[9] Id. at 83.

[10] Id.

[11] Id. at 68.

[12] Id. at 13.

[13] Id.

[14] Id. at 32.

[15] Records, pp. 149-156.

[16] Id. at 156.

[17] Rollo, pp. 59-65.

[18] Id. 30-41.

[19] Id. at 38-40.

[20] Id. at 101-107.

[21] Id. at 43-44.

[22] See *People v. Secreto*, G.R. No. 198115, February 27, 2013, 692 SCRA 298, 307; *People v. Climaco*, G.R. No. 199403, June 13, 2012, 672 SCRA 631, 641.

[23] See *Fajardo v. People*, G.R. No. 185460, July 25, 2012, 677 SCRA 541, 548; *People v. Alcuizar*, G.R. No. 189980, April 6, 2011, 647 SCRA 431, 437.

[24] See *People v. Nacua*, G.R. No. 200165, January 30, 2013, 689 SCRA 819, 832.

[25] *People v. Bautista*, G.R. No. 177320, February 22, 2012, 666 SCRA 518, 533.

[26] See *Mallillin v. People*, 576 Phil. 576, 587 (2008).

[27] *People v. Coreche*, G.R. No. 182528, August 14, 2009, 596 SCRA 350, 357.

[28] G.R. No. 182417, April 3, 2013, 695 SCRA 123.

[29] Id. at 134.

[30] Testimony of PO3 Ferdinand Modina, TSN, November 8, 2007, pp. 10-15.

[31] Testimony of PO2 Joel Rosales, TSN, August 22, 2008, pp. 16-17.

[32] *Supra* Note 28.

[33] Id. at 134-135.

[34] G.R. No. 185460, July 25, 2012, 677 SCRA 541.

[35] Id. at 557-559.

[36] *People v. Bara*, G.R. No. 184808, November 14, 2011, 660 SCRA 38, 45.

[37] *Zafra v. People*, G.R. No. 190749, April 25, 2012, 671 SCRA 396, 408.

[38] *Supra* note 28, at 136.

[39] See *People v. Ancheta*, G.R. No. 197371, June 13, 2012, 672 SCRA 604, 618.

[40] G.R. No. 181831, March 29, 2010, 617 SCRA 52.

[41] Id. at 59-60.

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