Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

-*versus*-

JOAN SONJACO *Y* STA. ANA,
Accused-Appellant.

G.R. No. 196962

Present:

VELASCO, JR., *J.*,
Chairperson,
PERALTA,*
PEREZ,
REYES, and
JARDELEZA,** *JJ.*

Promulgated:

June 8, 2016

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DECISION

PEREZ, *J.*:

Before us for review is the Decision[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 03211 dated 27 October 2010, which dismissed the appeal of appellant Joan Sonjaco y Sta. Ana and affirmed the Judgment[2] dated 10 July 2007 of the Regional Trial Court (RTC), Branch 65 of the City of Makati in Criminal Case Nos. 05-1506 and 05-1507, finding appellant guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

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* On Official Leave.
** On Wellness Leave.
1 *Rollo*, pp. 2-24; Penned by Associate Justice Jane Aurora C. Lantion with Associate Justices Andres B. Reyes, Jr. and Japar B. Dimaampao concurring.
2 Records, pp. 97-103; Penned by Acting Presiding Judge Eugene C. Paras.

Appellant was charged with violation of Sections 5 and 11 of Article II of R.A. No. 9165, to wit:

CRIMINAL CASE NO. 05-1506

That on or about the 6th day of August 2005, in the City of Makati, Philippines and a place within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, distribute, and transport zero point zero one (0.01) gram of Methylamphetamine hydrochloride which is a dangerous drug in consideration of two hundred (Php200.00) pesos.[3]

CRIMINAL CASE NO. 05-1507

That on or about the 6th day of August 2005, in the City of Makati, Philippines and a place within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have in her possession zero point one five (0.15) gram of Methylamphetamine hydrochloride which is a dangerous drug.[4]

At her arraignment, appellant pleaded not guilty to the offenses charged. Joint trial ensued.

The prosecution presented as witnesses Police Officer 1 Honorio Marmonejo, Jr. (PO1 Marmonejo) who acted as the *poseur-buyer* and PO1 Percieval Mendoza (PO1 Mendoza), a member of the buy-bust team. The prosecution and the defense agreed to dispense with the testimony of Forensic Chemical Officer Sharon Lontoc Fabros of the Philippine National Police Laboratory who examined the seized drugs.

The prosecution established that based on information received on 6 August 2005, that appellant and a certain *alias* Kenkoy were engaged in illegal drug trade in Pateros Street, *Barangay* Olympia, Makati City, Police Superintendent Marieto Valerio (P/Supt. Valerio) formed a buy-bust team composed of PO1 Marmonejo, PO1 Mendoza, PO1 Randy Santos and SPO3 Luisito Puno and two (2) other anti-drug agents Eduardo Monteza and Herminia Facundo. After a surveillance of the area and coordination with the Philippine Drug Enforcement Agency (PDEA) were made, P/Supt. Valerio

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3 Id. at 3.
4 Id. at 4.

briefed the team. PO1 Marmonejo was designated as *poseur-buyer* and two (2) pieces of One Hundred Peso (₱100) bills marked with the initials "MMV" were provided for the operation. At five o'clock in the afternoon of that day, PO1 Marmonejo and the police asset, on board a tricycle driven by PO1 Mendoza, proceeded to the target area. The other members of the buy-bust team positioned themselves nearby. The police asset called appellant and told her that PO1 Marmonejo wanted to buy *shabu.* Appellant asked PO1 Marmonejo how much, to which he replied, "*katorse lang*" or ₱200.00 worth of *shabu.* Appellant then took out from her pocket two (2) transparent plastic sachets containing a white crystalline substance, one of which she handed to PO1 Marmonejo in exchange for two (2) One Hundred Peso (₱100) bills. Appellant pocketed the other plastic sachet.[5]

Upon consummation of the transaction, PO1 Marmonejo revealed that he was a police officer and immediately apprehended appellant, apprised her of her constitutional rights and asked her to empty her pockets. PO1 Marmonejo recovered money in the amount of Five Hundred Forty Pesos (₱540.00), a mobile phone, and three (3) other plastic sachets containing white crystalline substance. PO1 Marmonejo marked the sachet sold to him as "BONG" while the three (3) other sachets as "JOAN," "JOAN 1," and JOAN 2." Appellant was brought to the police station for investigation and PO1 Marmonejo submitted the seized sachets to the Southern Police District Crime Laboratory.[6] The Forensic Laboratory Report[7] confirmed that the sachets contained methylamphetamine hydrochloride or *shabu.* The sachets of *shabu* purchased and recovered from appellant,[8] the inventory of the seized items,[9] the marked buy-bust mone[10] and the Final Police Investigation Report[11] were likewise presented in court.

Appellant testified on her behalf and vehemently denied the indictment. She claimed innocence and asserted that she had been at her mother-in-law's house when three (3) police officers entered the house and forcibly brought her to the police station and there attempted to extort money from her in exchange for her liberty.[12]

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5 Id. at 170-181; TSN, 19 October 2005; id. at 269-275; TSN, 21 February 2007.
6 Id. at 182-183; TSN, 21 February2007.
7 Id. at 83.
8 Id. at 71-72; Formal Offer of Evidence, Exhibits "N," "O," "P," and "Q."
9 Id. at 81; Exhibit "H."
10 Id. at 76; Exhibits "D" and "E."
11 Id. at 79; Exhibit "G."
12 Id. at 387-393; TSN, 24 April 2007.

On 10 July 2007, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of the crimes charged. The dispositive portion of the RTC Decision reads:

> **WHEREFORE,** in view of the foregoing, judgment is rendered as follows:
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> 1. In Criminal Case No. 05-1506, the [c]ourt finds accused JOAN SONJACO **GUILTY** of the charge for violation of Sec. 5, Article II, R.A. 9165 and sentences her to suffer LIFE imprisonment and to pay a fine of FIVE Hundred Thousand (P500,000.00) pesos;
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> 2. In Criminal Case No. 05-1507, the [c]ourt finds accused JOAN SONJACO y STA. ANA **GUILTY** of the charge for violation of Sec. 11, Article II, R.A. 9165 and sentences her to suffer the indeterminate sentence of Twelve (12) years and one (1) day as minimum to Fourteen (14) Years and one (1) day as maximum and to pay a fine of THREE Hundred Thousand (P300,000.00) pesos.
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> The period of detention of the accused should be given full credit.
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> Let the dangerous drug subject matter of this case be disposed of in the manner provided for by law.[13]

Appellant moved for a reconsideration of the case which the RTC denied.[14] The RTC reiterated that the testimony of the poseur-buyer sufficiently established all the elements of the crimes charged. The other witness could not be expected to corroborate the poseur-buyer's testimony on all the material points as the former only served as support officer. More importantly, the inconsistencies are too minor to cause a dent on the credibility of both prosecution witnesses. The RTC further said that the inventory sheet of the seized items from appellant, witnessed by two disinterested persons, belies any claim of irregularity. Lastly, the certification faxed by PDEA two (2) hours after the buy-bust operation evidenced an actual coordination earlier made.

Appellant filed a Notice of Appeal on 10 January 2008.[15] On 27 October 2010, the Court of Appeals rendered the assailed judgment affirming the RTC's decision. The Court of Appeals found appellant guilty of the crimes charged, or violation of Sections 5 and 11, Article II of R.A. No. 9165.

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13 Id. at 103.

14 Id. at 129; Order dated 8 January 2008.

15 Id. at 132.

Appellant appealed his conviction before this Court. In a Resolution[16] dated 14 September 2011, appellant and the Office of the Solicitor General (OSG) were asked to file their respective supplemental briefs if they so desired. Both parties dispensed with the filing of supplemental briefs.[17]

The Court finds no merit in the appeal.

The prosecution was able to establish with moral certainty the following elements required for all prosecutions for illegal sale of dangerous drugs: (1) proof that the transaction or sale took place; and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.[18] Appellant was apprehended, indicted and convicted by way of a buy-bust operation, a form of entrapment whereby ways and means are resorted to for the purpose of trapping and capturing the lawbreakers in the execution of their criminal plan.[19] The commission of the offense of illegal sale of dangerous drugs, like *shabu,* merely requires the consummation of the selling transaction which happens the moment the buyer receives the drug from the seller. The crime is already consummated once the police officer has gone through the operation as a buyer whose offer was accepted by the accused, followed by the delivery of the dangerous drugs to the former.[20]

Appellant was caught *in flagrante delicto* delivering two (2) plastic sachets containing white crystalline substance to PO1 Marmonejo, the *poseur buyer,* in exchange for ₱200.00. PO1 Marmonejo positively identified appellant in open court to be the same person who sold to him the items which upon examination was confirmed to be methylamphetamine hydrochloride or *shabu.* Upon presentation of the same in open court, another member of the buy-bust team, PO1 Mendoza, duly identified the items to be the same objects sold to the *poseur buyer* by appellant.[21]

On the other hand, to sustain a prosecution for illegal possession of dangerous drugs, the following elements must be established: (1) the accused is in possession of an item or object identified to be a prohibited or a regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed said drug.[22] Obtained through a valid search the police officers conducted pursuant to Section 13, Rule 126

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16 *Rollo,* p. 32.
17 Id. at 34-41.
18 *People v. Almeida,* 463 Phil. 637, 647 (2003).
19 *Cruz v. People,* 597 Phil. 722, 728 (2009).
20 *People v. Unisa,* 674 Phil. 89, 108 (2011).
21 Records, p. 160; TSN, 19 October 2005; id. at 279-280; TSN, 21 February 2007.
22 *People v. Concepcion,* 414 Phil. 247, 255 (2001).

of the Rules of Court,[23] the sachets recovered from appellant's person all tested positive for Methylamphetamine hydrochloride or *shabu.* Mere possession of a prohibited drug constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused in the absence of any satisfactory explanation of such possession.[24] The burden of evidence to explain the absence of *animus possidendi* rests upon the accused, and this, in the case at bar, the appellant failed to do.[25]

Credence was properly accorded to the testimonies of the prosecution witnesses, who are law enforcers. When police officers have no motive to testify falsely against the accused, courts are inclined to uphold this presumption. In this case, no evidence has been presented to suggest any improper motive on the part of the police enforcers in arresting appellant. We accord great respect to the findings of the trial court on the matter of credibility of the witnesses in the absence of any palpable error or arbitrariness in its findings.[26] Against the positive testimonies of both prosecution witnesses, appellant's plain denial of the offenses charged, unsubstantiated by any credible and convincing evidence simply fails. The defenses of denial and frame-up have been viewed with disfavor due to the ease of their concoction and the fact that they have become common and standard defense ploys in prosecutions for illegal sale and possession of dangerous drugs.[27] The inconsistencies, if any, in their testimonies, as alleged by appellant, the Court agrees with both the RTC and the appellate court, are but minor and cannot overturn a conviction established by competent and credible evidence. It has been settled that the witnesses' testimonies need only to corroborate one another on material details surrounding the actual commission of the crime.[28]

Anent the supposed failure to comply with the procedures prescribed by Section 21 of R.A. 9165, jurisprudence has it that non-compliance with these procedures does not render void the seizures and custody of drugs in a buy-bust operation.[29] What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items because the same will be utilized in ascertaining the guilt or innocence of the accused.[30] The chain of custody requirement ensures the preservation of the integrity and evidentiary

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

24 *Asiatico v. People,* 673 Phil. 74, 81 (2011).

25 *Abuan v. People,* 536 Phil. 672, 695 (2006).

26 *People v. Buenaventura,* 677 Phil. 230, 240 (2011).

27 *People v. Mantalaba* , 669 Phil. 461, 475 (2011).

28 *People v. Cruz,* 623 Phil. 261, 276 (2009).

29 See *People v. Daria,* 615 Phil. 744, 758 (2009).

30 *People v. Amansec,* 678 Phil. 831, 856 (2011) citing *People v. Campomanes,* 641 Phil. 610, 622-623 (2010).

value of the seized items in order to remove unnecessary doubts concerning the identity of the evidence.[31] In addition to the inventory made of the seized items, the prosecution was able to prove an unbroken chain of custody of the illegal drugs from their seizure and marking to their submission to the Southern Police District Crime Laboratory for analysis, to the identification of the same during the trial of the case.[32] As long as the chain of custody is unbroken, even though the procedural requirements of Section 21 of R.A. No. 9165 were not faithfully observed, the guilt of the appellant will not be affected.[33]

Notably, appellant raised the buy-bust team's alleged non-compliance with Section 21, Article II of R.A. No. 9165 only on appeal. Failure to raise this issue during trial is fatal to the cause of appellant.[34] It has been ruled that when a party desires the court to reject the offered evidence, he must so state in objection form. Without such objection, he cannot raise the question for the first time on appeal.[35]

R.A. No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 prescribes life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10,000,000.00 as penalties for violations of Section 5, Article II thereof. The passage of Republic Act No. 9346 proscribes the imposition of the death penalty,[36] thus the appellate court correctly affirmed the penalty of life imprisonment and fine of ₱500,000.00 prescribed by the RTC. Under Section 11, Article II of R.A. No. 9165, illegal possession of less than five (5) grams of *shabu* is penalized with imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from ₱300,000.00 to ₱400,000.00. Applying the *Indeterminate Sentence Law,* the minimum period of the imposable penalty shall not fall below the minimum period set by law and the maximum period shall not exceed the maximum period allowed under the law.[37] The Court of Appeals likewise correctly affirmed the penalty of imprisonment of twelve (12) years and one (1) day as minimum term to fourteen (14) years and one (1) day as maximum term, together with the fine of ₱300,000.00 imposed by the RTC.

WHEREFORE, premises considered, the appeal is **DISMISSED** for lack of merit. The Decision dated 27 October 2010 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03211 affirming the conviction of Joan Sonjaco y

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31 *People v. Dela Rosa*, 655 Phil. 630, 650 (2011).
32 Records, pp. 279-294; TSN, 21 February 2007.
33 *People v. Manlangit*, 654 Phil. 427, 442 (2010).
34 *People v. Torres*, 710 Phil. 398, 412 (2013).
35 *People v. Sta. Maria*, 545 Phil. 520, 534 (2007).
36 *People v. Concepcion*, 578 Phil. 957, 979-980 (2008).
37 *Sy v. People*, 671 Phil. 164, 182 (2011).

Sta. Ana by the Regional Trial Court, Branch 65, of Makati City in Criminal Case Nos. 05-1506 and 05-1507 for violation of Sections 5 and 11, Article II of Republic Act No. 9165, sentencing her to suffer respectively, the penalty of life imprisonment and a fine of ₱500,000.00, and the indeterminate sentence of twelve (12) years and one (1) day as minimum term to fourteen (14) years and one (1) day as maximum term and a fine of ₱300,000.00, is hereby **AFFIRMED.**

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

(On Official Leave)
DIOSDADO M. PERALTA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

(On Wellness Leave)
FRANCIS H. JARDERLEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Acting Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
JUN 27 2016