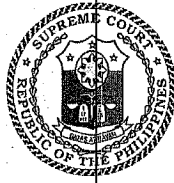


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Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 246165

Present:

- versus -

PERALTA, C.J., Chairperson,  
CAGUIOA,  
REYES, J., JR.;  
LAZARO-JAVIER, and  
INTING,\* JJ.

JOEFFREY MACASPAC y  
LLANETE and BRYAN  
MARCELO y PANDINO,  
Accused-Appellants.

Promulgated:

NOV 28 2019

X-----X

DECISION

LAZARO-JAVIER, J.:

The Case

Appellants Joeffrey Macaspac y Llanete and Bryan Marcelo y Pandino assail the Court of Appeals' Decision dated May 30, 2018, affirming their conviction for violation of Section 5, Article II of Republic Act No. 9165 (RA 9165).

\* Designated as additional member per S.O. No. 2726 dated October 25, 2019.

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### The Proceedings before the Trial Court

Appellants were charged<sup>1</sup> with violation of Section 5, Article II of RA 9165<sup>2</sup> for transporting five hundred fifty-two (552) grams of methamphetamine hydrochloride (*shabu*), a dangerous drug.

On arraignment, appellants pleaded not guilty.<sup>3</sup> Trial ensued.

#### *Prosecution's Version*

National Bureau of Investigation (NBI) Special Investigator Joel Otic testified that on December 13, 2015, around 4 o'clock in the afternoon, he received a report from a confidential informant that a drug trafficking group from San Pablo, Laguna was set to transport drugs to another drug trafficking group on the same day at the SM Mall of Asia (MOA). The confidential informant relayed further that for this transaction, the first group would use a silver Hyundai Accent with plate number AAV 8780, a white Mitsubishi Mirage with plate number ACA 3243, and a gray Mitsubishi van with plate number XLV 925.<sup>4</sup> Agent Otic, in turn, relayed the information to Chief Joel M. Tuvera, head of the Anti-Illegal Drugs Division (AIDD). Chief Tuvera approved the deployment of the team to the area. For this purpose, Agent Otic formed a team composed of Agent Fatima Liwalug, Agent Jerome Bomediano, Agent Bertrand Gamaliel Mendoza, Agent John Mark Santiago, Agent Melvin Escurel and Agent Salvador Arteche Jr. The team coordinated with the Philippine Drug Enforcement Agency (PDEA), the Pasay City Southern Police District, and the Security Manager of SM MOA, after which, it proceeded to the target area at the SM MOA.<sup>5</sup>

Around 5 o'clock in the afternoon, a MOA Security personnel informed Agent Otic that he saw a Hyundai Accent with plate number AAV 8780 parked in front of the SM Hypermarket. The team drove there and spotted the vehicle with three (3) persons on board. They were later identified as Dario

<sup>1</sup> Record, p. 1.

The Information reads:

That on or about the 13<sup>th</sup> of December 2015, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused JOEFFREY MACASPAC Y LLANETE and BRYAN MARCELO Y PANDINO, conspiring, confederating and mutually helping one another, without authority of law, did then and there willfully, unlawfully, and feloniously bring and transport 552 (Five Hundred Fifty Two) grams of Methamphetamine Hydrochloride (*shabu*), a dangerous drug, along SM Mall of Asia Complex, this city, using a Hyundai Accent vehicle with Plate No. AAV 8780. Contrary to law.

<sup>2</sup> Comprehensive Dangerous Drugs Acts of 2002.

Section 5, Article II states: 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.

<sup>3</sup> *Rollo*, p. 4.

<sup>4</sup> Record, p. 7.

<sup>5</sup> *Id.* at 7; *rollo*, p. 5.

“Bong Cuenca” (who acted as driver)<sup>6</sup> and appellants Macaspac and Marcelo. Appellants alighted from the vehicle and walked toward the package counter of the SM Hypermarket where they claimed a plastic bag<sup>7</sup> containing a box labeled “Zest O.”

As soon as appellants had returned to their vehicle, Agents Mendoza and Escurel closed in, blocked the vehicle, and ordered the driver and appellants to step out. But Bong reacted by revving up the engine and swiftly heading to the direction of Agents Mendoza and Escurel with the clear intent of hitting them.<sup>7</sup> When he missed his targets, Bong revved up the engine anew, albeit this time, the car was blocked by Agent Otic’s Toyota Fortuner. Agents Arteche and Santiago alighted from the Toyota Fortuner and ordered Bong and appellants to get off. But Bong once more accelerated the engine and tried anew to run over the agents. The police officers were then forced to shoot.<sup>8</sup> As a result, Bong and appellants got injured and were immediately brought to the San Juan de Dios Hospital in Pasay City. Bong died later that evening.<sup>9</sup>

Meantime, the police team inspected the Hyundai vehicle used by appellants. Agent Otic recovered from the backseat a “Zest O” box containing a plastic pack with white crystalline substance inside. Agent Otic did an inventory and marked the seized item with his initials “JLO” in the presence of media representative Ryan Ann, and Barangay Kagawad Andres Ileja of Barangay 76, Zone 10, Pasay City. Agent Liwalug took photographs of the seized item.<sup>10</sup>

Agent Otic also prepared a Request for Laboratory Examination and brought it to the NBI Manila’s Forensic Chemist Division. Forensic Chemist Loreto Bravo received from Agent Otic the specimen and the request for its examination.

Per Certification dated December 14, 2015, Forensic Chemist Bravo confirmed that the specimen weighed five hundred fifty-two (552) grams and was found positive for methamphetamine hydrochloride (*shabu*), a dangerous drug.<sup>11</sup>

The prosecution submitted the following evidence: 1) Joint Affidavit of Arrest;<sup>12</sup> 2) Coordination Form;<sup>13</sup> 3) Pre-Operation Report;<sup>14</sup> 4) Coordination Letter;<sup>15</sup> 5) Inventory of Seized Item;<sup>16</sup> 6) Request for Laboratory Examination and Analysis;<sup>17</sup> 6) Certification (of the qualitative and

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<sup>6</sup> Record, p. 9.

<sup>7</sup> *Id.* at 8.

<sup>8</sup> *Rollo*, p. 6.

<sup>9</sup> *Id.*

<sup>10</sup> Record, p. 9.

<sup>11</sup> *Id.* at 90.

<sup>12</sup> *Id.* at 7.

<sup>13</sup> *Id.* at 11.

<sup>14</sup> *Id.* at 12.

<sup>15</sup> *Id.* at 15.

<sup>16</sup> *Id.* at 16.

<sup>17</sup> *Id.* at 17.

quantitative results of the seized item);<sup>18</sup> and 7) Photographs of the seized item.<sup>19</sup>

### *Defense's Version*

Appellants interposed denial. They testified that on December 13, 2015, around 4 o'clock in the afternoon, they went to the SM MOA to meet with Bong Cuenca, an interested car buyer. While they were strolling inside the mall, Bong called appellant Marcelo to meet him near the ferris wheel at the SM MOA.<sup>20</sup> There, they boarded Bong's Hyundai vehicle.<sup>21</sup> Suddenly, armed men ran towards them and a car blocked Bong's vehicle. Another group of armed men also started hitting the vehicle. Bong accelerated the car causing the armed men to shoot as a result of which, they got wounded. They were brought to the San Juan de Dios Hospital for treatment.<sup>22</sup> After their discharge from the hospital, they were taken to the NBI where they got informed of the charge against them for illegal transporting of drugs.<sup>23</sup>

### **The Trial Court's Ruling**

By Decision<sup>24</sup> dated March 14, 2017, the trial court found appellants guilty as charged, *viz.*:

**WHEREFORE**, premises considered, the accused, **JOEFFREY MACASPAC** and **BRYAN MARCELO**, are hereby found **GUILTY** of transporting **552 grams** of *methamphetamine hydrochloride*, otherwise known as "shabu" as penalized under Section 5, Article II of Republic Act 9165, and are hereby sentenced to suffer a penalty of **LIFE IMPRISONMENT** and to pay a fine of **FIVE HUNDRED THOUSAND PESOS (P500,000.00)**.

The Branch Clerk of Court is hereby directed to coordinate with, and transmit to the PDEA, the one (1) sachet of representative sample earlier extracted from the specimen for its proper disposition.

Furnish the Legal and Prosecution Service of the PDEA, the NBI, the prosecutor, the accused and his counsel, copies of this decision.

SO ORDERED.

The trial court found that the elements of transporting drugs were all present here. Appellants had complete possession and control of the prohibited drugs from the time they picked up the same at the SM

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<sup>18</sup> *Id.* at 18.

<sup>19</sup> *Id.* at 19-20.

<sup>20</sup> TSN, November 11, 2016, p. 6.

<sup>21</sup> *Rollo*, p. 7.

<sup>22</sup> TSN, November 11, 2016, p. 6.

<sup>23</sup> *Rollo*, p. 7.

<sup>24</sup> Penned by Judge Racquelen Abary-Vasquez, *CA rollo*, pp. 30-48.

Hypermarket up until they boarded the drugs into Bong's car.<sup>25</sup> The trial court also noted that since appellants were actually in the act of committing an offense, the police officers had lawful reason to arrest them, search the vehicle, and seize the prohibited item found therein.<sup>26</sup> Had it not been for the timely interception by the police officers and NBI agents, both appellants and the five hundred fifty-two (552) grams of *shabu* would have freely moved out from the SM MOA undetected.<sup>27</sup>

Finally, there was substantial compliance with Section 21 of RA 9165. There was justifiable ground why the inventory and photograph of the seized item were not made in the presence of appellants as both of them were brought to the hospital for immediate treatment after sustaining gunshot wounds during the encounter. In any case, the integrity and evidentiary value of the seized item were preserved from the time it was seized until it was presented in court.<sup>28</sup>

### The Proceedings before the Court of Appeals

On appeal, appellants faulted the trial court for giving credence to Agent Otic's testimony, albeit the same was allegedly only based on the reports of his team. During the operation, Agent Otic stayed inside the vehicle, hence, he had no personal knowledge that appellants indeed retrieved a box containing *shabu* from the SM Hypermarket and brought it to their vehicle. His testimony, therefore, deserved no probative weight.<sup>29</sup> Appellants further argued that the integrity and evidentiary value of the *corpus delicti* were not preserved because the "Zest O" box which supposedly contained the *shabu* was not marked nor included in the inventory.<sup>30</sup>

For its part, the Office of the Solicitor General (OSG) countered in the main: 1) the elements of transporting dangerous drugs under Section 5, Article II of RA 9165 were all sufficiently established; 2) appellants were caught *in flagrante delicto* while transporting five hundred fifty-two (552) grams of *shabu*;<sup>31</sup> 3) the chain of custody was followed, thus, preserving the integrity and evidentiary value of the seized item;<sup>32</sup> and 4) Agent Otic's testimony was not hearsay as he was simply narrating independent relevant statements which led to appellants' lawful arrest.<sup>33</sup>

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<sup>25</sup> *Id.* at 39.

<sup>26</sup> *Id.* at 39-40.

<sup>27</sup> *Id.* at 40.

<sup>28</sup> *Id.* at 45.

<sup>29</sup> *Id.* at 24.

<sup>30</sup> *Id.* at 28.

<sup>31</sup> *Id.* at 60-61.

<sup>32</sup> *Id.* at 63-64.

<sup>33</sup> *Id.* at 65.

### The Court of Appeals' Ruling

By a Decision<sup>34</sup> dated May 30, 2018, the Court of Appeals affirmed the trial court's ruling. It ruled that the prosecution sufficiently established the elements of illegal transporting of dangerous drugs. Appellants' possession of the five hundred fifty-two (552) grams of *shabu*, by itself, indicated appellants' purpose to transport the same.<sup>35</sup>

Another. Agent Otic's testimony was not hearsay. Being the team leader of the operation which coordinated with the PDEA, as well as the mall's security personnel, he had personal knowledge of the illegal transporting of the drugs in question. He was also personally present at the target area during the operation.<sup>36</sup>

Finally, the prosecution sufficiently proved that the chain of custody rule was duly complied with, preserving the integrity and evidentiary value of the *corpus delicti*.<sup>37</sup>

### The Present Appeal

Appellants now seek affirmative relief from the Court and plead anew for a verdict of acquittal.

In compliance with the Resolution<sup>38</sup> dated June 10, 2019, the OSG manifested that in lieu of supplemental brief, it was adopting its brief before the Court of Appeals.<sup>39</sup>

On August 28, 2019, appellant Macaspac filed a supplemental brief<sup>40</sup> reiterating there was no transporting of illegal drugs to speak of since the prosecution failed to show they transferred the alleged illegal drugs from one place to another.<sup>41</sup> Also, there was a gap in the chain of custody because the forensic chemist was not presented in court to testify whether the seized item he examined was the same item presented in court.

### Issue

Did the Court of Appeals err when it affirmed appellants' conviction for illegal transporting of dangerous drugs under Section 5, Article II of RA 9165?

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<sup>34</sup> *Rollo*, pp. 3-12.

<sup>35</sup> *Id.* at 10.

<sup>36</sup> *Id.* at 10-11.

<sup>37</sup> *Id.* at 11.

<sup>38</sup> *Id.* at 17.

<sup>39</sup> *Id.* at 26-28.

<sup>40</sup> *Id.* at 32-38.

<sup>41</sup> *Id.* at 33.

### Ruling

The core element of illegal transporting of dangerous drugs is the movement of the dangerous drug from one place to another.<sup>42</sup> As defined in *People v. Mariacos*,<sup>43</sup> “transport” means “to carry or convey from one place to another.”<sup>44</sup>

In *People v. Matio*,<sup>45</sup> the Court noted there was no definitive moment when an accused “transports” a prohibited drug. When the circumstances establish the purpose of an accused to transport and the fact of transporting itself, there should be no question as to the perpetration of the criminal act.<sup>46</sup> The fact that there is actual conveyance suffices to support a finding that the act of transporting was committed.<sup>47</sup>

Here, appellants claim there was no transporting of illegal drugs to speak of since they were not able to actually leave the premises of the SM MOA.<sup>48</sup>

The argument fails.

Records bear the following facts: 1) appellants picked up from the baggage counter of the SM Hypermarket a plastic bag containing a “Zest-O” box filled with *shabu*; 2) appellants walked towards the SM MOA where Bong Cuenca’s car was waiting; 3) appellants loaded the *shabu* into the car and boarded; 4) as they and Bong were driving away, Agent Mendoza and Agent Escurel blocked them; 5) but instead of halting, Bong accelerated the engine and maneuvered to run over the agents; 6) when he missed his targets, Bong revved up the engine anew and maneuvered another time to run over the agents but this time, it was Agent Otic’s Toyota Fortuner which blocked the vehicle; and 7) when the driver and appellants were asked to step out, the driver simply repeated what he did earlier, thus, forcing the agents to shoot. Bong and appellants were consequently injured and later brought to the hospital for treatment. Appellants survived, but the driver did not.

True, appellants were not able to completely leave the SM MOA premises because their car was blocked by Agent Otic and his team but the fact remains – they had already moved the drugs from the SM Hypermarket into the car and had actually started driving away with it. In fine, the essential element of moving the drugs from one place to another was already accomplished, no matter how far or near the same had gone from their place of origin.

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<sup>42</sup> See *People v. Laba*, 702 Phil. 301, 308 (2013).

<sup>43</sup> See 635 Phil. 315, 333-334 (2010).

<sup>44</sup> *Id.*

<sup>45</sup> See 778 Phil. 509, 523 (2016).

<sup>46</sup> *Supra* note 43.

<sup>47</sup> *Id.*

<sup>48</sup> *Rollo*, p. 33.

*People v. Asislo*<sup>49</sup> aptly noted that the law does not dictate the threshold *how far* the drugs should have been transported in order to fall within the limits of illegal transporting of dangerous drugs. *People v. Gumilao*<sup>50</sup> further elucidated that in cases of illegal transporting of prohibited drugs, it is immaterial whether or not the place of destination is reached.

We also reckon with the rule that the intent to transport illegal drugs is presumed whenever a huge volume thereof is found in the possession of the accused until the contrary is proved.<sup>51</sup>

In *People v. Asislo*,<sup>52</sup> the Court found three (3) plastic bags of marijuana leaves and seeds as a considerable quantity of drugs and that possession of a similar amount of drugs showed appellant's intent to sell, distribute, and deliver the same.

Also, in *People v. Alacdis*,<sup>53</sup> appellant was found in possession of almost one hundred ten (110) kilos of marijuana. The Court ruled that such sheer volume by itself clearly indicated one's purpose to transport these drugs.

Here, five hundred fifty-two (552) grams or half kilo of *shabu* is by no means a minuscule amount indicating as well appellants' intent to deliver and transport them in violation of Section 5, Article II of RA 9165.

So must it be.

Going now to the chain of custody rule, we reiterate that in illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the substance illegally possessed, sold, delivered, or transported by the accused is the same substance presented in court.<sup>54</sup>

To ensure the integrity of the seized drug, the prosecution must account for each link in its chain of custody:<sup>55</sup> **first**, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; **second**, the turnover of the illegal drug seized by the apprehending

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<sup>49</sup> Supra note 45.

<sup>50</sup> See *People v. Gumilao*, G.R. No. 208755, October 5, 2016, citing *People v. Mariacos*, 635 Phil. 315, 333-334 (2010).

<sup>51</sup> See *People v. Asislo*, 778 Phil. 509 (2016); See *People v. Alacdis*, 811 Phil. 219, (2017).

<sup>52</sup> Supra note 45.

<sup>53</sup> See 811 Phil. 219, 232 (2017).

<sup>54</sup> See *People v. Barte*, 806 Phil. 533, 541-542 (2017).

<sup>55</sup> As defined in, Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002:

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b. "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[.]

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officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.<sup>56</sup>

Here, the prosecution sufficiently complied with the chain of custody rule, *viz.*:

*One*, in the place where the drugs were seized and in the presence of insulating witnesses, *i.e.*, media representative Ryan Ann and Barangay Kagawad Andres Ileja from Barangay 76, Zone 10, Pasay City, Agent Otic marked and inventoried the “Zest-O” Box containing the original packing of the five hundred fifty-two (552) grams of *shabu*,<sup>57</sup> while Agent Liwalug took photographs of the same. Notably, the prosecution recognized that at that time, appellants themselves were not around anymore because they were taken to the hospital for treatment of the injuries they sustained during the encounter.

*Two*, Agent Otic remained in custody of the seized item from the time it was seized until it was marked and inventoried. He testified, thus:

Q: So you were able to get the Zest-O on top of the seat?

A: Yes, ma’am.

Q: Anything else?

A: After that, we conducted the inventory of the items seized in the presence of the witnesses, the barangay officials, MOA representatives and media representatives, ma’am.

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Q: And then what happened next?

A: After that, we requested the media to take videos and photographs while I marked the seized items in their presence, ma’am.

Q: Who took the pictures?

A: From our side, it was Agent Liwalug, ma’am.

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Q: And then?

A: We also requested the witnesses to sign the inventory sheet, ma’am.

Q: You, what did you do?

A: I was the one who conducted the markings and inventory, ma’am.<sup>58</sup>

*Three*, Agent Otic turned over the dangerous drugs to Forensic Chemist Loreto Bravo. We note that Agent Otic did not turn over the seized item to an investigator at the police station but remained in custody of the same until he turned it over to Forensic Chemist Bravo for qualitative examination. This is

<sup>56</sup> See *People v. Dahil*, 750 Phil. 212, 231 (2015)

<sup>57</sup> Record, p.79.

<sup>58</sup> TSN, April 11, 2016, pp. 29-30.

not a breach of the chain of custody. In *People v. Santos*,<sup>59</sup> NBI Agent Saul was the one who seized the marijuana leaves and dangerous drugs paraphernalia from the accused. He, too, marked and inventoried the seized items. He did not turn them over to an investigator as he immediately submitted the same to the forensic chemist for qualitative examination. The Court ruled there was no breach in the chain of custody and the integrity and evidentiary value of the seized item remained intact from their seizure to their presentation as evidence in court.

*Four*, Forensic Chemist Bravo received the specimen and request for examination. Per Certification dated December 14, 2015, he confirmed that the specimen yielded positive for methamphetamine hydrochloride. It is a matter of record that both the prosecution and the defense agreed to dispense with the testimony of Forensic Chemist Bravo, and in its stead, stipulated among others, that: 1) Forensic Chemist Bravo who conducted the laboratory examination of the specimen is a competent, qualified, and expert witness; 2) his findings per Certification dated December 14, 2015 showed that the seized item weighed five hundred fifty-two [552] grams and were found positive for methamphetamine hydrochloride; and 3) he had no personal knowledge of the offense imputed against appellants.

Forensic Chemist Bravo's Certification perfectly conformed with the specifications in the inventory prepared by Agent Otic, thus, leaving no doubt that the drugs received by Forensic Chemist Bravo for examination were the same ones seized by Agent Otic from appellants and eventually presented in court. To emphasize, the prosecution's formal offer of evidence indicated that Exhibit I-1-a represented the seized drugs themselves weighing five hundred fifty-two (552) grams.<sup>60</sup>

In *People v. Moner*,<sup>61</sup> the Court affirmed the verdict of conviction. The Court noted that in lieu of the forensic chemist's testimony, the prosecution and the defense stipulated that the forensic chemist received the specimens for examination and her findings revealed the same yielded positive results for *shabu*.

In *People v. Cutara*,<sup>62</sup> the forensic chemist did not testify in court. In lieu of his testimony, the prosecution offered as evidence his chemistry report showing that the seized item went through qualitative examination and yielded positive for *shabu*, and it was the same item presented in court as evidence. The Court held that the prosecution successfully established the links in the chain of custody over the seized drugs from the time of its confiscation, to its qualitative examination at the crime laboratory, up until it was offered in evidence. The totality of the prosecution's evidence showed that the integrity of the seized items had been duly preserved and its chain of custody had been accounted for.

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<sup>59</sup> See G.R. No. 223142, January 17, 2018.

<sup>60</sup> Record, p. 76.

<sup>61</sup> See G.R. No. 202206, March 5, 2018.

<sup>62</sup> See 810 Phil. 999, 1002, 1005 (2017).

Too, in *People v. Galicia*,<sup>63</sup> the Court decreed that the prosecution's failure to present the forensic chemist to testify on how the seized items were handled and taken into custody was **not fatal** to the admissibility of the seized drugs. *People v. Padua*<sup>64</sup> further elucidated, viz.:

Further, **not all people who came into contact with the seized drugs are required to testify in court. There is nothing in Republic Act No. 9165 or in any rule implementing the same that imposes such requirement.** As long as the chain of custody of the seized drug was clearly established not to have been broken and that the prosecution did not fail to identify properly the drugs seized, **it is not indispensable that each and every person who came into possession of the drugs should take the witness stand.** x x x (Emphasis and underscoring supplied)

In any event, the Court keenly notes the large amount of *shabu* involved here - - - five hundred fifty-two (552) grams or more than half kilo. In *Malillin v. People*,<sup>65</sup> the Court stated that the likelihood of tampering, loss, or mistake with respect to a seized illegal drug is greatest when the item is small and is one that has physical characteristics fungible in nature. To repeat, five hundred fifty-two (552) grams or more than half kilo of *shabu* is by no means a minuscule amount, thus, logically confirming the improbability of planting, tampering, or alteration.

The Court has invariably ordained that while the chain of custody should ideally be perfect, in reality it is not, "as it is almost always impossible to obtain an unbroken chain." The most important factor is the preservation of the integrity and the evidentiary value of the seized items to determine the guilt or innocence of the accused,<sup>66</sup> as in this case.

In another vein, both the trial court and the Court of Appeals found Agent Otic's testimony to be credible, straightforward, and direct. More important, both courts found that Agent Otic was not shown, nay accused, to have been impelled by malice or ill will to falsely charge appellants with such heinous offense<sup>67</sup> of illegal transporting of a huge amount of methamphetamine hydrochloride. In *People v. Flor*,<sup>68</sup> the Court gave full faith and credence to police officer's testimony in the absence of imputed malice on his part to testify against the accused for violation of Section 5, Article II of RA 9165. Here, Agent Otic was not shown to have any ulterior motive to falsely charge appellants. The Court, therefore, finds no reason to doubt his credibility.

Be that as it may, in cases involving violations of RA 9165, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are not only presumed but have

<sup>63</sup> See G.R. No. 218402, February 14, 2018.

<sup>64</sup> See 639 Phil. 235, 251 (2010).

<sup>65</sup> See 576 Phil. 576, 588 (2008)

<sup>66</sup> See *Saraum v. People*, 779 Phil. 122, 133 (2016).

<sup>67</sup> *Rollo*, p. 11; *CA rollo*, p. 45.

<sup>68</sup> See G.R. No. 216017, January 19, 2018.

been clearly shown to have performed their official duty in a regular manner. *People v. Cabiles*<sup>69</sup> is apropos, viz.:

The direct account of law enforcement officers enjoys the presumption of regularity in the performance of their duties. It should be noted that **“unless there is clear and convincing evidence that the police officers were inspired by any improper motive or did not properly perform their duty, their testimonies on the operation deserve full faith and credit. Thus, unless the presumption is rebutted, it becomes conclusive.”** Since, accused-appellant failed to present or refute the evidence presented against him, therefore, the conduct of the operation of the police officers prevails and is presumed regular. (Emphasis and underscoring supplied)

Surely, appellants' bare denial cannot prevail over Agent Otic's positive testimony, much less, the presumption of regularity accorded him and his team in the performance of their official duty. *People v. Alcala*<sup>70</sup> stressed that the presumption of regularity in the performance of official duty and the findings of the trial court with respect to the credibility of witnesses supported by positive evidence shall prevail over appellant's self-serving defense of denial.

The Court accords great weight to the trial court's factual findings here, particularly as regards credibility of witnesses. For it had the opportunity to observe first-hand the deportment and demeanor of witnesses and it was in a position to discern whether or not they were telling the truth. More so because the trial court's factual findings here carried the full concurrence of the Court of Appeals itself. *People v. Perondo*<sup>71</sup> is relevant:

x x x **findings of the trial courts which are factual in nature and which involve credibility are accorded respect** when no glaring errors, gross misapprehension of facts, or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason for this 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 the trial. **The rule finds an even more stringent application where said findings are sustained by the Court of Appeals.** x x x (Emphasis supplied).

All told, the Court of Appeals did not err when it affirmed the trial court's verdict of conviction against appellants for violation of Section 5, Article II of RA 9165.

As for the penalty, the same provision decrees:

The penalty of life imprisonment to death and a **fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos**

<sup>69</sup> See 810 Phil. 969, 976 (2017).

<sup>70</sup> See 739 Phil. 189, 194-195 (2014).

<sup>71</sup> See 754 Phil. 205, 217 (2015).

**(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 xxx. (Emphasis and underscoring supplied)

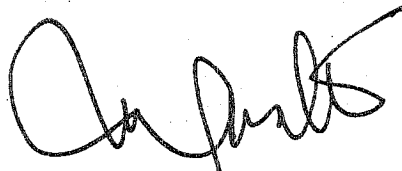
Verily, the Court of Appeals correctly affirmed appellants' sentence to life imprisonment and fine of ₱500,000.00.

**ACCORDINGLY**, the appeal is **DISMISSED** and the Decision dated May 30, 2018 of the Court of Appeals in CA-G.R. CR HC No. 09437, is **AFFIRMED**. Appellants Joefrey Macaspac y Llanete and Bryan Marcelo y Pandino are found **GUILTY** of illegal transporting of five hundred fifty-two (552) grams of methamphetamine hydrochloride, a dangerous drug, as defined and penalized under Section 5, Article II of Republic Act 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. They are sentenced to **LIFE IMPRISONMENT** and ordered to pay a **FINE** of ₱500,000.00 each.

**SO ORDERED.**

  
**AMY C. LAZARO- JAVIER**  
Associate Justice

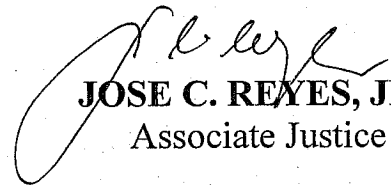
**WE CONCUR:**



**DIOSDADO M. PERALTA**  
Chief Justice

(On official leave)

**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



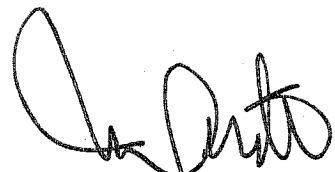
**JOSE C. REYES, JR.**  
Associate Justice



**HENRI JEAN PAUL B. INTING**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify 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.



**DIOSDADO M. PERALTA**  
Chief Justice

