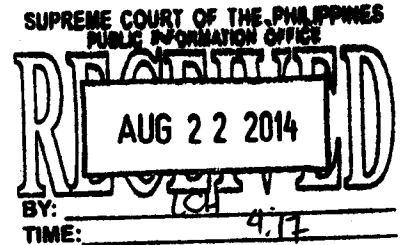




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 9, 2014 which reads as follows:

***“G.R. No. 204046 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. MARK CUATRO CRUZ y TUTING AND RONALD DELA PEÑA y PEREZ, Accused-Appellants.*”**

Accused-appellants Mark Cuatro T. Cruz (Cruz) and Ronald P. dela Peña (Dela Peña) appeal the Decision dated December 9, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03936, which affirmed *in toto* the Decision dated April 17, 2009 of the Regional Trial Court (RTC), Branch 80, Quezon City, in Criminal Case No. Q-03-116522, finding them guilty beyond reasonable doubt of the illegal sale of methamphetamine hydrochloride, more popularly called *shabu*, a dangerous drug, penalized under Article II, Section 5 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

In the Information dated April 8, 2003 filed before the RTC, accused-appellants were charged as follows:

That on or about the 6th day of April 2003, in Quezon City, Philippines, the said accused conspiring together, confederating with and mutually helping each other, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did then and there willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point thirty three (0.33) gram of methylamphetamine hydrochloride, a dangerous drug.¹

Accused-appellants pleaded not guilty during their arraignment. After the pre-trial conference, trial ensued.

¹ Records, p. 1.

The prosecution presented the testimonies of Police Officer (PO) 2 Rufino Gabis (Gabis) and PO2 Jerry Sanchez (Sanchez), and dispensed with the testimony of Police Inspector (P/Insp.) Angel C. Timario (Timario), forensic chemist of the Philippine National Police (PNP) Crime Laboratory in Camp Crame, Quezon City, after the defense agreed to stipulate on the substance of the same. The prosecution likewise submitted documentary and object evidence consisting of the sworn statements of PO2 Gabis and PO2 Sanchez; a photocopy of the ₱500.00 bill utilized in the buy-bust operation; a heat-sealed plastic sachet with the markings "RG" containing white crystalline substance; a letter-request for the laboratory examination of the contents of the said plastic sachet signed by Police Senior Inspector (PS/Insp.) Maximo Milan Canilang (Canilang); the Certification and Chemistry Report No. D-372-03 dated April 7, 2003 of P/Insp. Timario which states that the subject crystalline substance, with an aggregate weight of 0.33 gram, tested positive for methamphetamine hydrochloride.

The prosecution's evidence support the following version of events:

On April 6, 2003, PO2 Gabis received information that accused-appellants were illegally peddling dangerous drugs in front of Farmer's Plaza along EDSA. PO2 Gabis immediately relayed this information to PS/Insp. Canilang, Chief of the Station Drug Enforcement Unit (SDEU) of Cubao Police Station 7, who consequently organized a buy-bust operation. PS/Insp. Canilang constituted a buy-bust team composed of PO2 Gabis, PO2 Sanchez, and Police Officers Bernard Domingo, Manuel Saldana, Reynaldo Bayogo, Roberto Bersal, and Jimmy Leal. PO2 Gabis was designated as the poseur-buyer and he was given a ₱500.00 bill, marked with his initials "RG," as buy-bust money. The other members of the buy-bust team served as PO2 Gabis' back-up officers.

On even date, at around 2:30 in the afternoon, the buy-bust team, together with their confidential informant, proceeded to the location reportedly frequented by accused-appellants, which was only about a hundred meters away from the police station. Accused-appellants arrived at said location after 30 minutes. The confidential informant then introduced PO2 Gabis to accused-appellant Cruz. PO2 Gabis told accused-appellant Cruz, in the vernacular, that he was buying ₱500.00 worth of *shabu*. PO2 Gabis then gave the marked money to accused-appellant Cruz. Upon the instructions of accused-appellant Cruz, accused-appellant Dela Peña handed over to PO2 Gabis a heat-sealed plastic sachet containing white crystalline substance. Thereafter, PO2 Gabis removed his cap as a signal to his team of the consummation of the sale. PO2 Sanchez and the other members of the buy-bust team rushed to the aid of PO2 Gabis and apprehended accused-appellants. Accused-appellants were brought to the nearby police station.

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At the police station, PO2 Gabis marked with his initials the sachet of suspected *shabu* sold to him by accused-appellants, and turned over the said sachet to the desk officer for recording. After PS/Insp. Canilang issued the letter-request for chemical analysis of the contents of the sachet, PO2 Gabis personally delivered the letter-request and the specimen to the PNP Crime Laboratory in Camp Crame, Quezon City.

On April 7, 2003, P/Insp. Timario conducted a qualitative examination of the specimen submitted by PO2 Gabis and reported that the white crystalline substance contained in the sachet, with an aggregate weight of 0.33 gram, tested positive for methamphetamine hydrochloride.

The defense called both accused-appellants to the witness stand. Accused-appellants denied the charge against them, claiming that they were just standing in front of Farmer's Plaza in Cubao, Quezon City, when PO2 Gabis and PO2 Sanchez suddenly accosted them at gunpoint and brought them to the police station.

On April 17, 2009, the RTC promulgated its Decision, finding accused-appellants guilty as charged, thus:

WHEREFORE, premises considered, accused Mark Cuatro Cruz y Tuting and Ronald dela Peña y Perez are hereby found GUILTY beyond reasonable doubt of the offense charged. Accordingly, they are hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a FINE of ₱500,000.00 each, there being no mitigating nor aggravating circumstances that attended the commission of the offense.

The illegal drug subject of this case is hereby forfeited in favor of the government. The Branch Clerk of Court is hereby ordered to turn-over the same to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.²

Accused-appellants filed an appeal before the Court of Appeals, based on the following assignment of errors:

[1] THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY DESPITE THE ILLEGALITY OF THEIR ARREST AND THE INADMISSIBILITY OF THE ALLEGED CONFISCATED SHABU;

[2] THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO PO2 GABIS' VERSION OF THE ALLEGED BUY-BUST OPERATION; and

[3] THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS DESPITE PO2 GABIS' FAILURE TO STRICTLY COMPLY WITH SECTION 21 OF REPUBLIC ACT NO. 9165.³

² CA rollo, p. 52.

³ Rollo, p. 5.

In its Decision dated December 9, 2011, the Court of Appeals denied accused-appellants' appeal for lack of merit and affirmed *in toto* the RTC judgment of conviction.

Hence, the instant appeal.

Accused-appellants maintain their innocence, asserting that they were victims of unlawful warrantless arrest. Any *shabu* supposedly seized from them is also inadmissible in evidence since it is the result of an unlawful search and seizure.

Accused-appellants further argue that the prosecution failed to comply with the proper procedure in the handling and custody of seized drugs as provided under Article II, Section 21 of Republic Act No. 9165. The apprehending police officers did not immediately mark, inventory, and photograph the seized drugs upon their confiscation at the place where they were seized, in the presence of accused-appellants, a media representative, and any elected public official. PO2 Gabis himself admitted that he only marked the sachet of *shabu* purportedly sold to him by accused-appellants at the police station.

The Court sustains accused-appellants' conviction.

Accused-appellants are essentially asking the Court to delve into the factual matters of their case. Settled is the rule that factual findings of the appellate court affirming those of the trial court are binding on this Court, unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable error. Since accused-appellants failed to show any arbitrariness, palpable error, or capriciousness on the findings of fact of the trial and appellate courts, these findings deserve great weight and are deemed conclusive and binding. Besides, an assiduous review of the records at hand shows that the Court of Appeals did not err in affirming accused-appellants' conviction.⁴

In the prosecution for the crime of illegal sale of dangerous drugs, the following elements must concur: (1) the identities of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment thereof. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually occurred, coupled with the presentation in court of the substance seized as evidence.⁵

In this case, it was duly established that a legitimate buy-bust operation against accused-appellants was organized by PS/Insp. Canilang of the SDEU Cubao Police Station 7, on April 6, 2003. During the operation, PO2 Gabis, the poseur-buyer, handed over the marked ₱500.00

⁴ *Asiatico v. People*, G.R. No. 195005, September 12, 2011, 657 SCRA 443, 450.

⁵ *People v. Castro*, G.R. No. 194836, June 15, 2011, 652 SCRA 393, 408.

bill to accused-appellant Cruz and accused-appellant Dela Peña, upon the instruction of accused-appellant Cruz, gave in exchange to PO2 Gabis a heat-sealed plastic sachet containing 0.33 gram of *shabu*. Caught *in flagrante delicto* selling dangerous drugs, accused-appellants were arrested without warrants.

Accused-appellants were arrested in an entrapment operation where they were caught *in flagrante delicto* selling *shabu*. An arrest made after an entrapment operation does not require a warrant inasmuch as it is considered a valid warrantless arrest pursuant to Rule 113, Section 5 (a) of the Rules of Court. This Court had previously held that a buy-bust operation is a form of entrapment which in recent years has been accepted as a valid and effective mode of apprehending drug pushers. If carried out with due regard for constitutional and legal safeguards, a buy-bust operation deserves judicial sanction. Moreover, in a buy-bust operation, the violator is caught *in flagrante delicto* and the police officers conducting the same are not only authorized but also duty-bound to apprehend the violator and consequently search him for anything that may have been part of or used in the commission of the crime.⁶

Failure of the police officers to strictly comply with the requirements of Article II, Section 21(1) of Republic Act No. 9165 is not fatal to the prosecution's case. As the Court ruled in *People v. Maongco*:⁷

The Court disagrees with accused-appellants as the police officers had substantially complied with the chain of custody rule under Section 21 (a) of the Implementing Rules of Republic Act No. 9165. The Court had previously held that in dangerous drugs cases, the failure of the police officers to make a physical inventory, to photograph, and to mark the seized drugs at the place of arrest do not render said drugs inadmissible in evidence or automatically impair the integrity of the chain of custody of the same. The Court had further clarified, in relation to the requirement of marking the drugs "immediately after seizure and confiscation," that the marking may be undertaken at the police station rather than at the place of arrest for as long as it is done in the presence of the accused and that what is of utmost importance is the preservation of its integrity and evidentiary value.

The rule is settled and clear that what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as these would be utilized in the determination of the guilt or innocence of the accused.⁸ The function of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed. To be admissible, the prosecution must show by records or

⁶ *People v. Cruz*, G.R. No. 187047, June 15, 2011, 652 SCRA 286, 300, citing *People v. Sembrano*, G.R. No. 185848, August 16, 2010, 628 SCRA 328, 341; *People v. Agulay*, 588 Phil. 247, 272 (2008).

⁷ G.R. No. 196966, October 23, 2013.

⁸ *People v. Resurreccion*, 618 Phil. 520, 530 (2009).

testimony, the continuous whereabouts of the exhibit, at least between the time it came into possession of the police officers, until it was tested in the laboratory to determine its composition, and up to the time it was offered in evidence.⁹

Contrary to the assertion of accused-appellants, the prosecution was able to trace each and every link in the chain of custody of the sachet of *shabu*: accused-appellant Dela Peña, following the instructions of accused-appellant Cruz, handed over the sachet to PO2 Gabis during the buy-bust operation; PO2 Gabis kept possession of the sachet, marked the sachet with his initials at the police station, then personally delivered and submitted the sachet to the laboratory for forensic examination; P/Insp. Timario received the request for laboratory examination and the submitted specimen, and after he finished testing the specimen, forwarded the same to the evidence custodian, from whom it was retrieved only on the date P/Insp. Timario was scheduled to testify in court.

Jurisprudence has oft-repeated that in prosecutions involving dangerous drugs, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. Absent any indication that the police officers were ill-motivated in testifying against accused-appellants, their testimonies deserve full weight and credence.¹⁰ And as against the positive testimonies of the prosecution witnesses, the defenses of denial and frame-up proffered by accused-appellants must simply fail. Bare denials cannot prevail over positive identification made by the prosecution witnesses. Besides, this Court has held in a catena of cases that the defense of denial or frame-up has been viewed with disfavor for it can just as easily be concocted and is a common and standard ploy in most prosecutions for violation of the Dangerous Drugs Act.¹¹

WHEREFORE, in view of the foregoing, the Decision dated December 9, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03936 which affirmed *in toto* the Decision dated April 17, 2009 of the RTC, Branch 80, Quezon City, in Criminal Case No. Q-03-116522, is hereby **AFFIRMED**.

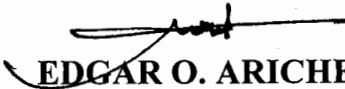
⁹ *People v. Lucio*, G.R. No. 191391, June 19, 2013, 699 SCRA 173, 196.

¹⁰ *People v. Vicente, Jr.*, G.R. No. 188847, January 31, 2011, 641 SCRA 186, 197-198.

¹¹ *Ambre v. People*, G.R. No. 191532, August 15, 2012, 678 SCRA 552, 566.

SO ORDERED.” REYES, J., on leave; **MENDOZA, J.**, acting member per S.O. No. 1715 dated July 1, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court *pld*
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The Solicitor General (x)
Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 03936)

The Director
Bureau of Corrections
1770 Muntinlupa City

The Hon. Presiding Judge
Regional Trial Court, Br. 80
1100 Quezon City
(Crim. Case No. Q-03-116522)

Public Information Office (x)
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PUBLIC ATTORNEY’S OFFICE
Counsel for Accused-Appellants
DOJ Agencies Bldg.
1128 Diliman, Quezon City

Judgment Division (x)
Supreme Court

Messrs. Mark Cuatro T. Cruz and Ronald
P. Dela Peña
Accused-Appellants
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

SR

