



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **01 February 2021** which reads as follows:*

“**G.R. No. 253232 (People of the Philippines v. Alex Josafat y Enrena)**. – The Court **NOTES**:

1. the separate manifestations (in lieu of supplemental briefs) of the Public Attorney’s Office dated December 14, 2020, and the Office of the Solicitor General dated December 16, 2020, both in compliance with the Resolution dated October 7, 2020, adopting their briefs filed before the Court of Appeals (CA) on the common ground that they have adequately discussed all the matters in the instant case; and

2. the letter dated December 9, 2020 of CTC Insp. Albert C. Manalo, Officer-In-Charge, Inmate Documents and Processing Division, Bureau of Corrections, Muntinlupa City, confirming the confinement of accused-appellant Alex Josafat y Enrena (accused-appellant) at the said institution since September 25, 2018.

After a judicious study of the case, the Court resolves to **DISMISS** the appeal<sup>1</sup> for failure to sufficiently show that the CA committed any reversible error in affirming the conviction of accused-appellant for the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of Republic Act No. 9165,<sup>2</sup> otherwise known as the ‘Comprehensive Dangerous Drugs Act of 2002.’

As correctly ruled by the courts *a quo*, all the elements<sup>3</sup> of the crime of Illegal Sale of Dangerous Drugs are present in this case as the prosecution clearly established that accused-appellant was caught *in flagrante delicto* selling 0.023 gram of shabu to PCI Genercio Binan (PCI Binan), the designated poseur-buyer,

<sup>1</sup> *Rollo*, pp. 22-24.

<sup>2</sup> Entitled ‘AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,’ approved on June 7, 2002.

<sup>3</sup> ‘The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.’ (See *People v. Piñero*, G.R. No. 242407, April 1, 2019)

during the conduct of a legitimate buy-bust operation. Likewise, there was a confluence of all the elements<sup>4</sup> of the crime of Illegal Possession of Dangerous Drugs considering that during the search conducted incidental to his lawful arrest, three (3) more transparent heat-sealed plastic sachets containing *shabu* were recovered from him, such possession not being authorized by law.

Furthermore, all the links<sup>5</sup> of the chain of custody had likewise been established, considering that: (a) after accused-appellant was arrested, PCI Binan took custody of the seized items and marked the same at the place of arrest in the presence of accused-appellant before bringing it to the police station; (b) at the police station, and after the conduct of the inventory and photography in the presence of accused-appellant and the required witnesses, namely Department of Justice representative Atty. Christobal Balangcod, and Punong Barangay Isagani Aguilar, the confiscated items were turned over to PO3 Carlo Dumangas; (c) PO3 Dumangas then turned over the items to the crime laboratory where they were initially received by PO3 Christian Pangilinan, who in turn, delivered the same to Forensic Chemist PCI Arlyn Dascil-Cañete (PCI Cañete);<sup>6</sup> and (d) after qualitative examination, PCI Cañete turned over said *shabu* to the evidence custodian, who in turn, preserved the seized items until they were brought to the court *a quo* and duly identified during trial.

Finally, pursuant to A.M. No. 15-08-02-SC,<sup>7</sup> the Court hereby deletes the phrase ‘without eligibility for parole’ in the penalty to be imposed on accused-appellant in the crime of Illegal Sale of Dangerous Drugs.

**WHEREFORE**, the Court **ADOPTS** the findings of fact and conclusions of law in the Decision<sup>8</sup> dated February 11, 2020 of the Court of Appeals in CA-G.R. C.R.-H.C. No. 11873 and **AFFIRMS with MODIFICATION** said Decision finding accused-appellant Alex Josafat y Enrena **GUILTY** beyond reasonable doubt of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as the ‘Comprehensive Dangerous Drugs Act of 2002.’ Accordingly, he is sentenced to suffer the following penalties: (a) for Illegal Sale of Dangerous Drugs, life imprisonment, and a fine in the amount of ₱500,000.00; and (b) for Illegal Possession of Dangerous Drugs, an indeterminate period of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and a fine in the amount of ₱300,000.00.

**SO ORDERED.”**

<sup>4</sup> “[T]he elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.” See *id.*

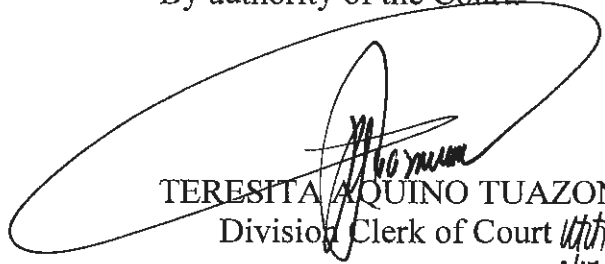
<sup>5</sup> “Thus, the following links should be established in the chain of custody of the confiscated item: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending 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 from the forensic chemist to the court.” (*People v. Que*, G.R. No. 212994, January 31, 2018, citing *People v. Nandi*, 639 Phil. 134, 144-145 [2010]).

<sup>6</sup> *Rollo*, pp. 5-6.

<sup>7</sup> Entitled ‘GUIDELINES FOR THE PROPER USE OF THE PHRASE ‘WITHOUT ELIGIBILITY FOR PAROLE’ IN INDIVISIBLE PENALTIES’ dated August 4, 2015.

<sup>8</sup> *Rollo*, pp. 3-21. Penned by Associate Justice Priscilla J. Baltazar-Padilla (now retired member of the Court) with Associate Justices Maria Filomena D. Singh and Louis P. Acosta, concurring.

By authority of the Court:



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Division Clerk of Court  
17 FEB 2021

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(Crim. Case No. RTC-10152-I to RTC-10153-I)

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\*with Copy of CA Decision dated 11 February 2020  
\*\*For this resolution only  
*Please notify the Court of any change in your address.*  
GR253232. 02/01/2021(90)URES