



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Appellee,

- versus -

JOSE ALMODIEL alias  
"DODONG ASTROBAL,"  
Appellant.

G. R. No. 200951

Present:

CARPIO, J., Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, JJ.

Promulgated:

SEP 05 2012 *LLM Cabalag/Myfecto*

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DECISION

CARPIO, J.:

The Case

Before the Court is an appeal assailing the Decision<sup>1</sup> of the Court of Appeals, Cagayan de Oro City, (CA) in CA-G.R. CR HC No. 00632-MIN. The CA affirmed the Decision<sup>2</sup> of the Regional Trial Court of Butuan City, Branch 4 (RTC), in Criminal Case No. 9840 convicting appellant Jose Almodiel *alias* "Dodong Astrobal" (accused) of violation of Section 5, Article II (Sale of Dangerous Drugs)<sup>3</sup> of Republic Act No. 9165 (RA 9165)

<sup>1</sup> *Rollo*, pp. 3-17. Penned by Associate Justice Edgardo T. Lloren, with Associate Justices Carmelita Salandanan-Manahan and Zenaida T. Galapate-Laguilles, concurring.

<sup>2</sup> *CA rollo*, pp. 48-60. Penned by Judge Godofredo B. Abul, Jr..

<sup>3</sup> Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life

or *The Comprehensive Dangerous Drugs Act of 2002*.

### **The Facts**

The Information dated 16 May 2003 filed against the accused states:

#### **AMENDED INFORMATION**

The undersigned accuses JOSE ALMODIEL alias “DODONG” ASTROBAL of the crime of [v]iolation of Section 5, Article II of R. A. No. 9165, committed as follows:

That at or about 2:00 o’clock in the afternoon of March 20, 2003 at Purok 9, Brgy. 15, Langihan Road, Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell, trade, deliver two (2) sachets of methamphetamine hydrochloride, otherwise known as shabu weighing zero point one two zero five (0.1205) grams, a dangerous drug.

That the accused has already been convicted in Criminal Case No. 7338 for Violation of Section 16, Article III of R.A. 6425, as amended by R.A. 7659.

CONTRARY TO LAW. (Violation of Sec. 5, Art. II of R.A. 9165)<sup>4</sup>

Upon arraignment, the accused entered a plea of not guilty. During pre-trial, the defense admitted all the allegations in the Information except the specific place of the alleged incident and the allegation of the sale of dangerous drugs. Thus, trial ensued.

### **Version of the Prosecution**

The prosecution presented three witnesses: (1) PO2 Saldino C. Virtudazo (PO2 Virtudazo), (2) PO3 Arnel P. Lumawag (PO3 Lumawag), and (3) PSInsp. Cramwell T. Banogon (PSInsp. Banogon).

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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. x x x

<sup>4</sup> Records, p. 10.

At 7:30 a.m. of 20 March 2003, the Philippine Drug Enforcement Agency (PDEA) Regional Office XIII in Libertad, Butuan City, received a report from a confidential agent that a certain “Dodong” was dealing with *shabu*. Immediately after, Regional Director PSupt. Glenn Dichosa Dela Torre (PSupt. Dela Torre) conducted a briefing for a buy-bust operation and designated SPO4 Alberto Arnaldo (SPO4 Arnaldo) as teamleader, PO2 Virtudazo as poseur-buyer, and PO3 Lumawag as back-up operative.

At 1:30 p.m. of the same day, PO2 Virtudazo, PO3 Lumawag, and the confidential agent proceeded to Purok 9, Brgy. 15, Langihan Road, Butuan City to conduct the buy-bust operation. PO3 Lumawag hid and positioned himself eight meters away from PO2 Virtudazo and the confidential agent. When the accused arrived, the confidential agent introduced PO2 Virtudazo to the accused as customer of *shabu*. PO2 Virtudazo told the accused that he wanted to buy two sachets of *shabu* worth ₱400.00. The accused agreed, and then left. After thirty minutes, the accused returned bringing two sachets containing white crystalline substance, which he handed to PO2 Virtudazo. PO2 Virtudazo testified that based on experience, he knew that the substance in the two sachets was *shabu*. Thus, PO2 Virtudazo gave a pre-arranged signal to PO3 Lumawag to approach them.

PO2 Virtudazo and PO3 Lumawag introduced themselves as PDEA agents, and arrested the accused after informing him of his constitutional rights. They took him to the PDEA Regional Office, and seized from him other items – two aluminum foils and one lighter.<sup>5</sup> PO2 Virtudazo marked the two sachets with “APL-1” and “APL-2,” the initials of PO3 Lumawag. Together with SPO3 Dindo Alota (SPO3 Alota) and PO3 Lumawag, PO2 Virtudazo brought the accused and the two sachets to the Regional Crime Laboratory Office for drug testing. In PSIInsp. Banogon’s Chemistry Report No. D-061-2003,<sup>6</sup> the substance contained in the two sachets was

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<sup>5</sup> Id. at 96.

<sup>6</sup> Id. at 99.

found positive of *shabu*.

The prosecution offered and submitted the following exhibits: (1) Exhibit “A” and sub-markings – Certificate of Inventory or Confiscation Receipt dated 20 March 2003; (2) Exhibit “B” and sub-markings – written request for laboratory examination dated 20 March 2003; (3) Exhibit “C” and sub-markings – self-sealing pack containing the actual specimen of two sachets of *shabu*; and (4) Exhibit “D” and sub-markings – Chemistry Report No. D-061-2003 dated 21 March 2003.<sup>7</sup>

### **Version of the Defense**

On the other hand, the defense also presented three witnesses: (1) the accused himself, (2) Felix Branzuela (Felix), and (3) Max Malubay (Max), the alleged confidential agent.

The accused denied the charges of the prosecution, and narrated that on the morning of 20 March 2003, he and his girlfriend stayed in Cadez Lodging House, located at Purok 9, Brgy. 15, Butuan City. At about 10 a.m., the accused’s girlfriend left but promised to return later. While waiting, the accused and Felix played with the slot machine. Then, Max approached the accused and requested to buy *shabu* from him. The accused told Max that he was not selling *shabu*. Thus, Max left. However, Felix alleged that he saw Max talking to police officers. Felix informed the accused that Max is a police asset, but the accused ignored his remark and stated that he had nothing to fear.

Around 1:30 p.m. of the same day, the accused decided to go home aboard his motorcycle. While on his way, the accused was stopped by PO3 Lumawag, who pointed a gun at the accused and arrested him. The accused noticed PO3 Lumawag holding a sachet of *shabu* while searching

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<sup>7</sup> Id. at 94.

the accused's body. The accused protested but PO3 Lumawag directed him to go to the PDEA office with another police officer. Upon arrival, the accused was instructed to remove his clothes. PO3 Lumawag took the accused's wallet and claimed to retrieve another sachet of *shabu* from it. PO3 Lumawag insisted that the accused owned the *shabu*, but the accused vehemently denied the same. After about thirty minutes, a representative from the media and City Prosecutor Felixberto Guiritan (Prosecutor Guiritan) arrived. They took pictures of the two sachets of *shabu* and signed the Certificate of Inventory.

### **The Decision of the Regional Trial Court**

In its Decision dated 17 June 2008, the RTC found the accused guilty beyond reasonable doubt of violation of RA 9165. The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, accused is hereby found guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act 9165 ([o]therwise [k]nown as the Dangerous Drugs Act of 2002) and is hereby accordingly sentenced to suffer the penalty of life imprisonment and a fine of [F]ive Hundred Thousand Pesos (P500,000.00) without subsidiary imprisonment in case of insolvency.

Accused shall serve his sentence at the Davao Prison and Penal Farm at Braulio E. Dujali, Davao del Norte and shall be credited in the service thereof with his preventive imprisonment pursuant to Article 29 of the Revised Penal Code, as amended.

The sachets of *shabu* are ordered confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.<sup>8</sup>

The RTC found that the elements of the crime of illegal sale of *shabu* were proven by the prosecution. On the other hand, the accused failed to present clear and convincing evidence to prove his defense of frame-up and planting of evidence. Hence, the RTC held that the categorical and convincing testimonies of the prosecution witnesses, supported by physical

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<sup>8</sup> *Rollo*, pp. 6-7.

evidence, overcome the unsubstantiated claim of ill-motive by the accused. In addition, the RTC ruled that the arrest was lawfully made.

On 4 July 2008, the accused filed a Motion for Reconsideration, which was denied by the RTC in its Resolution<sup>9</sup> dated 22 July 2008. The accused filed an appeal to the CA. The accused imputed the following errors on the RTC:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THAT ACCUSED-APPELLANT WAS CAUGHT *IN FLAGRANTE DELICTO* SELLING THE SUBJECT DANGEROUS DRUGS.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE ARREST AND THE SEARCH OF THE ACCUSED-APPELLANT WITHOUT A WARRANT WOULD FALL UNDER THE DOCTRI[N]E OF WARRANTLESS SEARCH AS AN INCIDENT TO A LAWFUL ARREST.

III

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE SUBJECT *SHABU* IS ADMISSIBLE IN EVIDENCE.

IV

THE COURT A QUO GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT WHEN THE CHAIN OF CUSTODY OF THE ALLEGED CONFISCATED DRUGS WAS NOT ESTABLISHED IN CONFORMITY WITH THE ESTABLISHED RULES.

V

THE COURT A QUO GRAVELY ERRED IN CONVICTING APPELLANT WHEN HIS GUILT IS NOT PROVEN BEYOND REASONABLE DOUBT.<sup>10</sup>

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<sup>9</sup> Records, pp. 157-158.

<sup>10</sup> *Rollo*, pp. 7-8.

### **The Decision of the Court of Appeals**

In its Decision dated 14 November 2011, the CA affirmed the RTC's Decision against the accused. The dispositive portion of the CA Decision reads:

WHEREFORE, the appeal is DISMISSED. The Decision dated June 17, 2008 finding Jose Almodiel alias Dodong Astrobal guilty beyond reasonable doubt of violation of Section 5, Article II of RA 9165 is AFFIRMED *in toto*.

SO ORDERED.<sup>11</sup>

The CA ruled that since a buy-bust operation was conducted, there was no necessity for a warrant of arrest pursuant to Rule 113, Section 5(a) of the Rules of Court. The CA found that the defense's version of the events was not credible considering that the accused did not object to his arrest or file any complaint against the police officers. On the chain of custody rule, the CA held that non-compliance with Section 21 of RA 9165 is not fatal as long as there is justifiable ground, and the integrity and evidentiary value of the seized drugs are preserved, as in this case.

Hence, this appeal.<sup>12</sup>

### **The Ruling of the Court**

The appeal lacks merit.

The elements necessary for a prosecution for violation of RA 9165 or sale of dangerous drugs are: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment.<sup>13</sup> What is material is the proof that the transaction actually took

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<sup>11</sup> Id. at 16.

<sup>12</sup> Id. at 18-19. Pursuant to Rules of Court, Rule 125, Section 2 in relation to Rule 56, Section 3.

<sup>13</sup> *People v. Laylo*, G.R. No. 192235, 6 July 2011, 653 SCRA 660 citing *People v. Llamado*, G.R. No. 185278, 13 March 2009, 581 SCRA 544.

place, coupled with the presentation before the court of the *corpus delicti*.<sup>14</sup>

In the present case, all the elements of the crime have been sufficiently established. PO2 Virtudazo testified that a buy-bust operation took place, to wit:

PROSECUTOR GUIRITAN:

Q: On March 20, 2003 at about 2:00 o'clock in the afternoon, where were you at that time?

A: I was at Purok 9, Barangay 15, San Ignacio, Langihan Road, Butuan City.

Q: Why were you there in that place?

A: Because we were conducting an entrapment operation.

x x x x

Q: You already mentioned last time that you were already at the place at about 2:00 o'clock of March 20, 2003, and you were with your back-up Lumawag and your confidential agent. When you arrived at that place what happened actually?

A: At 2:00 o'clock the accused arrived in the place and he gave me the two (2) sachets of "shabu."

Q: How did the accused know that you will be the buyer?

A: I was introduced by our confidential agent to him.

Q: Now you said the accused handed to you "shabu", how many sachets, if you recall?

A: Two (2) sachets, Sir.

Q: When already in possession of those two (2) sachets of "shabu", what did you do?

A: I examined it if it is indeed "shabu."

Q: What was your findi[n]gs?

A: That it was real "shabu."

Q: How did you know that it was a "shabu"?

A: Based on my experience.<sup>15</sup>

Upon clarificatory questioning by the court, PO2 Virtudazo testified that the accused agreed to sell *shabu* to him, thus:

<sup>14</sup> *People v. De La Cruz*, G.R. No. 185717, 8 June 2011, 651 SCRA 597; *People v. Ara*, G.R. No. 185011, 23 December 2009, 609 SCRA 304; *People v. Orteza*, G.R. No. 173051, 31 July 2007, 528 SCRA 750; *People v. Cabugatan*, G.R. No. 172019, 12 February 2007, 515 SCRA 537.

<sup>15</sup> TSN, 25 August 2004, pp. 9-12.

- Q: So what did you do when the accused was already with the asset?  
 A: I was introduced by our asset to the accused and at that point in time I also told the accused that I was interested to buy “shabu.”
- Q: And the accused what did he do to you?  
 A: He agreed and then left immediately.
- Q: What did you agree with the accused?  
 A: That he will give me “shabu.”
- Q: Why will the accused give you “shabu”?  
 A: Because I was going to buy it from him.
- Q: For how much?  
 A: Worth ₱400.00.<sup>16</sup>

PO3 Lumawag materially corroborated the testimony of PO2 Virtudazo as to the conduct of the buy-bust operation, to wit:

- Q: What happened when the accused arrived?  
 A: When the accused arrived they talked with each other then after more or less two (2) minutes, the suspect left the area.

x x x x

- Q: Now what happened after that?  
 A: After the suspect left the area, after another twenty-five (25) minutes more or less, he came back and met Virtudazo at that area.

x x x x

- Q: Now, when the accused went back, what happened next?  
 A: I observed that the accused approached Virtudazo and he gave something to Virtudazo. When Virtudazo tried to inspect the items given to him, that’s the time that Virtudazo gave the pre-arranged signal by turning his cap.

- Q: And, what did you do?  
 A: So, when PO2 Virtudazo gave the pre-arranged signal that’s the time I rushed up and apprehended the suspect.

x x x x

- Q: How many shabu was given by him to your poseur-buyer?  
 A: Two (2) sachets, sir.

- Q: How did you come to know of that?  
 A: Because when I approached him, Virtudazo also showed to me that that is the shabu given to him by the suspect.<sup>17</sup>

<sup>16</sup> Id. at 32-33.

<sup>17</sup> TSN, 14 July 2005, pp. 8-10.

Both testimonies of PO2 Virtudazo and PO3 Lumawag positively identified PO2 Virtudazo as the poseur-buyer and the accused as the seller of two sachets containing white crystalline substance for ₱400.00. The confiscated sachets were brought to the crime laboratory for examination, where a chemical analysis on the substance confirmed that the same was *shabu*. The sachets containing *shabu* were positively identified by PSInsp. Banogon during the trial as the same sachets seized from the accused.

The accused, however, contends that there was no sale since the marked money was not delivered to the accused or presented in Court. *Cruz v. People*<sup>18</sup> is instructive in ruling that the failure to present the buy-bust money is not fatal to the case.

x x x The marked money used in the buy-bust operation is not indispensable but merely corroborative in nature. In the prosecution for the sale of dangerous drugs, the absence of marked money does not create a hiatus in the evidence for the prosecution as long as the sale of dangerous drugs is adequately proven and the drug subject of the transaction is presented before the court. Neither law nor jurisprudence requires the presentation of any money used in the buy-bust operation.<sup>19</sup>

It has been settled that 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 suggesting ill-motive on the part of the police officers.<sup>20</sup> In the present case, the claim of ill-motive was not substantiated by the accused. The trial court found the testimonies of the prosecution witnesses convincing, categorical and credible. Findings of the trial court, which are factual in nature and which involve the credibility of witnesses, are accorded respect when no glaring errors, gross misapprehension of facts or speculative, arbitrary and unsupported conclusions are made from such findings.<sup>21</sup> This rule finds an even more stringent application where the findings are sustained by the

<sup>18</sup> G.R. No. 164580, 6 February 2009, 578 SCRA 147.

<sup>19</sup> Id. at 154.

<sup>20</sup> *People v. Llamado*, G.R. No. 185278, 13 March 2009, 581 SCRA 544.

<sup>21</sup> *People v. Gaspar*, G.R. No. 192816, 6 July 2011, 653 SCRA 673 citing *People v. De Guzman*, G.R. No. 177569, 28 November 2007, 539 SCRA 306.

Court of Appeals, as in the present case.<sup>22</sup>

The accused denied the charge against him, and alleged frame-up and planting of evidence by the police officers. In *Quinicot v. People*,<sup>23</sup> we held that allegations of frame-up by police officers are common and standard defenses in most dangerous drugs cases. For this claim to prosper, the defense must adduce clear and convincing evidence to overcome the presumption that government officials have performed their duties in a regular and proper manner.<sup>24</sup> Here, the accused made a bare allegation without presenting clear and convincing evidence to support his claim. Felix and Max testified that they did not witness the incident between the accused and the police officers before the arrest.<sup>25</sup> Against the positive testimonies of the prosecution witnesses, the accused's plain denial of the offense charged, unsubstantiated by any credible and convincing evidence, must simply fail.<sup>26</sup>

Thus, in the absence of proof of motive to falsely impute such a serious crime against the accused, the presumption of regularity in the performance of official duty, as well as the findings of the trial court on the credibility of witnesses, shall prevail over the accused's self-serving and uncorroborated denial.<sup>27</sup>

### **Arrest During a Buy-bust Operation**

The accused contends that the police officers arrested him without securing a warrant of arrest. Consequently, his arrest was unlawful, making the sachets of *shabu* allegedly seized from him inadmissible in evidence.

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<sup>22</sup> Id.

<sup>23</sup> G.R. No. 179700, 22 June 2009, 590 SCRA 458.

<sup>24</sup> *People v. Villamin*, G.R. No. 175590, 9 February 2010, 612 SCRA 91.

<sup>25</sup> TSN, 8 June 2006, p. 7; TSN, 29 June 2007, p. 9.

<sup>26</sup> *People v. Villamin*, supra citing *People v. del Monte*, G. R. No. 179940, 23 April 2008, 552 SCRA 627.

<sup>27</sup> *People v. Manlangit*, G.R. No. 189806, 12 January 2011, 639 SCRA 455 citing *People v. Llamado* G.R. No. 185278, 13 March 2009, 581 SCRA 544.

Under Section 5 (a), Rule 113 of the Rules of Court, a person may be arrested without a warrant if he “has committed, is actually committing, or is attempting to commit an offense.”<sup>28</sup> The accused was caught in the act of committing an offense during a buy-bust operation. When an accused is apprehended *in flagrante delicto* as a result of a buy-bust operation, the police officers are not only authorized but duty-bound to arrest him even without a warrant.<sup>29</sup> An arrest made after an entrapment operation does not require a warrant inasmuch as it is considered a valid “warrantless arrest.”<sup>30</sup>

The accused argues that force and intimidation attended his arrest when four police officers arrested him and one of them pointed a gun at him. However, his allegations were not supported by evidence. On the contrary, the CA found that the defense neither objected to the accused’s arrest nor filed any complaint against the police officers.

Considering that an arrest was lawfully made, the search incidental to such arrest was also valid. A person lawfully arrested may be searched, without a search warrant, for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense.<sup>31</sup> Accordingly, the two sachets of *shabu* seized in the present case are admissible as evidence.

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<sup>28</sup> Rules of Court, Rule 113, Section 5 provides:  
Sec. 5. Arrest without warrant; when lawful – A peace officer or a private person may, without a warrant, arrest a person:  
(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;  
(b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and  
(c) When the person to be arrested is a prisoner who escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

<sup>29</sup> *People v. Manlangit*, supra note 27 citing *People v. Doria*, 361 Phil. 595 (1999).  
<sup>30</sup> *Id. citing People v. Agulay*, G.R. No. 181747, 26 September 2008, 566 SCRA 571.  
<sup>31</sup> Rules of Court, Rule 126, Section 13.

### The Chain of Custody Requirement

The accused contends that the prosecution failed to establish the identity of the *shabu* in accordance with the requirements under RA 9165 and its Implementing Rules and Regulations.<sup>32</sup> The defense particularly alleges that there was no photograph of the seized items and there was no *barangay* official present during the incident.

We find the claim unmeritorious. In the prosecution of drug cases, it is of paramount importance that the existence of the drug, the *corpus delicti* of the crime, be established beyond doubt.<sup>33</sup> It is precisely in this regard that RA 9165, particularly its Section 21,<sup>34</sup> prescribes the procedure to ensure the existence and identity of the drug seized from the accused and submitted to the court.

The Implementing Rules of RA 9165 offer some flexibility when a proviso added 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.”<sup>35</sup> In *People v. Rosialda*,<sup>36</sup> *People v. Llamado*,<sup>37</sup> and *People v. Rivera*,<sup>38</sup> the Court had the occasion to apply such flexibility when it ruled that the failure of the prosecution to show that the police officers conducted the required physical inventory and photograph of the evidence confiscated is not fatal

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<sup>32</sup> *Rollo*, p. 14.

<sup>33</sup> *People v. Arriola*, G.R. No. 187736, 8 February 2012.

<sup>34</sup> (a) 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;

<sup>35</sup> *People v. Rosialda*, G.R. No. 188330, 25 August 2010, 629 SCRA 507.

<sup>36</sup> *Id.*

<sup>37</sup> *Supra* note 20.

<sup>38</sup> G.R. No. 182347, 17 October 2008, 569 SCRA 879.

and does not automatically render the arrest of the accused illegal or the items seized from him inadmissible.

The Court consistently held that what is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.<sup>39</sup> In other words, it must be established with unwavering exactitude that the dangerous drug presented in court as evidence against the accused is the same as that seized from him in the first place.<sup>40</sup> The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.<sup>41</sup>

Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002,<sup>42</sup> which implements RA 9165, defines “chain of custody” as follows:

"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[.]<sup>43</sup>

*Malillin v. People*<sup>44</sup> explained that the chain of custody rule would include testimony about every link in the chain, from the moment the item was picked up to the time it was offered in evidence, in such a way that every person who touched the exhibit would describe how and from whom it

<sup>39</sup> *People v. Magundayao*, G.R. No. 188132, 29 February 2012; *People v. Le*, G.R. No. 188976, 29 June 2010, 622 SCRA 571 citing *People v. De Leon*, G.R. No. 186471, 25 January 2010, 611 SCRA 118; *People v. Naquita*, G.R. No. 180511, 28 July 2008, 560 SCRA 430; *People v. Concepcion*, G.R. No. 178876, 27 June 2008, 556 SCRA 421.

<sup>40</sup> *People v. Obmiranis*, G.R. No. 181492, 16 December 2008, 574 SCRA 140.

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

<sup>42</sup> Guidelines On The Custody And Disposition Of Seized Dangerous Drugs, Controlled Precursors And Essential Chemicals, and Laboratory Equipment pursuant to Section 21, Article II of the IRR of R.A. No. 9165 in relation to Section 81(b), Article IX of R.A. No. 9165.

<sup>43</sup> *People v. Pagaduan*, G.R. No. 179029, 9 August 2010, 627 SCRA 308; *People v. Denoman*, G.R. No. 171732, 14 August 2009, 596 SCRA 257; *People v. Garcia*, G.R. No. 173480, 25 February 2009, 580 SCRA 259.

<sup>44</sup> G.R. No. 172953, 30 April 2008, 553 SCRA 619.

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 that there was no opportunity for someone not in the chain to have possession of the same.<sup>45</sup>

In *People v. Kamad*,<sup>46</sup> the Court ruled that the links that must be established in the chain of custody in a buy-bust situation are: *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.

For the first link, PO2 Virtudazo positively testified that he was in possession of the two sachets of *shabu* from the time of the buy-bust operation up to the PDEA office.<sup>47</sup> PO3 Lumawag corroborated his testimony.<sup>48</sup> Then, PO2 Virtudazo marked the confiscated two sachets of *shabu* using the initials of PO3 Lumawag, "APL-1" and "APL-2," to help him remember that PO3 Lumawag was his companion at that time.<sup>49</sup> PO2 Virtudazo prepared the Certificate of Inventory, which was signed by their team leader SPO4 Arnaldo, Prosecutor Guiritan and a media representative.<sup>50</sup> PO3 Lumawag testified that barangay officials were not present because some barangay officials were suspected of involvement in illegal drugs.<sup>51</sup>

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<sup>45</sup> Id.

<sup>46</sup> G.R. No. 174198, 9 January 2010, 610 SCRA 295.

<sup>47</sup> TSN, 25 August 2004, p. 13.

<sup>48</sup> TSN, 14 July 2005, p. 10.

<sup>49</sup> TSN, 25 August 2004, p. 21.

<sup>50</sup> Id. at pp. 16-17.

<sup>51</sup> TSN, 14 July 2005, p. 21.

As to the second and third link, PO2 Virtudazo, together with SPO3 Alota and PO3 Lumawag, brought the accused and the two sachets to the crime laboratory on the same day of the arrest.<sup>52</sup> For the final link, forensic chemist PSInsp. Banogon testified that he examined the two sachets, marked with “APL-1” and “APL-2,” and submitted them on 20 March 2003 to PO1 Monton, the PNCO desk officer of the crime laboratory.<sup>53</sup> In his Chemistry Report No. D-061-2003, PSInsp. Banogon found the substance in the two sachets positive of *shabu*. PSInsp. Banogon took possession of the *shabu* until he identified and offered the same to the court.<sup>54</sup> Accordingly, the prosecution substantially complied with the requirements under RA 9165 and sufficiently established the crucial links in the chain of custody. The integrity and evidentiary value of the seized *shabu* remain unimpaired.

The accused argues that SPO4 Arnaldo, SPO3 Alota and PO1 Monton should have testified in court. But in *People v. Habana*,<sup>55</sup> we held that there is no requirement for the prosecution to present as witness in a drugs case every person who had something to do with the arrest of the accused and the seizure of the prohibited drugs from him. The discretion on which witness to present in every case belongs to the prosecutor.<sup>56</sup> It is even possible to reach a conclusion of guilt on the basis of the testimony of a lone witness.<sup>57</sup> Furthermore, as aptly ruled by the CA, there was no need for other persons in the chain of custody to testify, since their testimonies would only corroborate that of PO2 Virtudazo.

In fine, the evidence for the prosecution established that during a buy-bust operation, the accused was caught *in flagrante delicto* in the act of selling two sachets of *shabu* to a police officer, who acted as a poseur-buyer. Thus, the guilt of the accused had been proven in the instant case beyond

<sup>52</sup> TSN, 25 August 2004, p. 20; TSN, 14 July 2005, p. 12.

<sup>53</sup> TSN, 23 February 2006, p. 5.

<sup>54</sup> Id. at 9.

<sup>55</sup> G.R. No. 188900, 5 March 2010, 614 SCRA 433.

<sup>56</sup> Id. citing *People v. Zeng Hua Dian*, G.R. No. 145348, 14 June 2004, 432 SCRA 25.

<sup>57</sup> *People v. Alberto*, G.R. No. 179717, 5 February 2010, 611 SCRA 706.

reasonable doubt.

Under Section 5, Article II of RA 9165, the crime of unauthorized sale of shabu, regardless of the quantity and purity thereof, is punishable with life imprisonment to death and a fine ranging from five hundred thousand pesos (P500,000.00) to ten million pesos (P10,000,000.00). Hence, the penalty of life imprisonment and a fine of P500,000.00 was correctly imposed by the RTC and the CA on accused Jose Almodiel *alias* "Dodong Astrobal" for illegal sale of *shabu*.

**WHEREFORE**, we **DISMISS** the appeal. We **AFFIRM** the Decision dated 14 November 2011 of the Court of Appeals in CA-G.R. CR HC No. 00632-MIN *in toto*.

**SO ORDERED.**

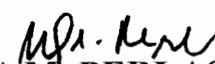
  
**ANTONIO T. CAPIO**  
Associate Justice

**WE CONCUR:**

  
**ARTURO D. BRION**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
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.

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice