



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **04 August 2021** which reads as follows:*

**“G.R. No. 241323 (*People of the Philippines v. Rudy Ramirez y Kilat and Ronie Cahilo y Sario alias “Amboy”*)**. – This is an ordinary appeal under Rule 122 of the Rules of Court, as amended, seeking to reverse and set aside the Decision<sup>1</sup> dated August 31, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02211. The said issuance affirmed the December 3, 2015 Judgment<sup>2</sup> issued by Branch 30 of the Regional Trial Court (RTC) of Dumaguete City in Criminal Case No. 2014-22434 which, in turn, found accused-appellants Rudy Ramirez y Kilat (Ramirez) and Ronie Cahilo y Sario alias “Amboy” (Cahilo) (collectively, accused-appellants) guilty beyond reasonable doubt of violation of Section 5, Article II, of Republic Act (R.A.) No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

**Antecedents**

Accused-appellants were indicted of the crime charged by virtue of an Information dated August 18, 2014, the accusatory portion of which reads as follows:

That on or about July 28, 2014 at about 7:18 o’clock in the morning, in Brgy. Combado, Bacong, Negros Oriental, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring and helping one another, not being authorized by law, did then and there, willfully and knowingly, sell and deliver to a poseur buyer, two (2) heat sealed transparent plastic sachet[s] containing a total weight of 0.11 gram of shabu, a dangerous drug.

CONTRARY TO LAW.<sup>3</sup>

<sup>1</sup> *Rollo*, pp. 4-16. Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Gabriel T. Ingles and Geraldine C. Fiel-Macaraig.

<sup>2</sup> *CA rollo*, pp. 27-39. Rendered by Judge Rafael Cresencio C. Tan, Jr.

<sup>3</sup> Records, p. 4.

Upon arraignment, accused-appellants, assisted by counsel, pleaded not guilty to the offense charged.<sup>4</sup> Thereafter, pre-trial ensued, followed by trial on the merits.

*Version of the prosecution*

The evidence for the prosecution established that on July 14, 2014, at around 10:00 a.m., Police Officer (PO) 2 Benedicto Ejan (PO2 Ejan) of the Bacong Police Station was informed by his commanding officer, Police Senior Inspector Jaime S. Tolentino (PSI Tolentino), that he, along with PO3 Glenn Austero (PO3 Austero), would be conducting a surveillance operation on accused-appellants at the latter's residence in Barangay Combado, Bacong, Negros Oriental.<sup>5</sup> It was reported that accused-appellants were engaged in the illegal drug trade.<sup>6</sup>

After two weeks of surveillance, PO2 Ejan and PO3 Austero reported back to PSI Tolentino who, in turn, organized a buy-bust operation against accused-appellants.<sup>7</sup> PO2 Ejan was designated as poseur-buyer and was given two 500-peso bills with serial numbers EJ131974<sup>8</sup> and BQ741481<sup>9</sup> as marked money.<sup>10</sup>

On July 28, 2014, at around 7:15 a.m., the buy-bust operation was conducted. The police operatives went to accused-appellants' house and waited for accused-appellants to go outside.<sup>11</sup>

When PO2 Ejan saw Cahilo leave the house, he waved at the latter to approach him. As Cahilo went closer to him, PO2 Ejan asked the former, "Boy give me worth ₱1,000.00."<sup>12</sup> He then handed Cahilo the marked money. Thereafter, Cahilo called Ramirez and said, "Bai, give me two *plastada* worth ₱1,000.00."<sup>13</sup> Ramirez then approached PO2 Ejan and handed him two heat-sealed transparent plastic sachets containing white crystalline granules which the latter suspected as *shabu*.<sup>14</sup> PO2 Ejan then touched his head with his right hand as a signal for the buy-bust team to arrest accused-appellants, which they did.<sup>15</sup> During the entire transaction, PO3 Austero was right beside PO2 Ejan.<sup>16</sup>

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<sup>4</sup> Id. at 48.

<sup>5</sup> TSN, September 29, 2015, pp. 2-3.

<sup>6</sup> Id. at 3-4.

<sup>7</sup> Id. at 4.

<sup>8</sup> Records, p. 27.

<sup>9</sup> Id.

<sup>10</sup> TSN, September 29, 2015, pp. 4-5.

<sup>11</sup> Id. at 5-6.

<sup>12</sup> Id. at 6.

<sup>13</sup> Id.

<sup>14</sup> Id. at 6-7.

<sup>15</sup> Id. at 7.

<sup>16</sup> Id. at 8.

One of the plastic sachets that were confiscated from accused-appellants was marked by PO2 Ejan as “RSC-RKR-BB1-7-28-14” while the other was marked as “RSC-RKR-BB2-7-28-14”. PO2 Ejan likewise wrote the date “July 28, 2014” and his signature on both plastic sachets.<sup>17</sup> PO2 Ejan also prepared a Certificate of Inventory<sup>18</sup> at the scene, duly signed by media representative Joene D. Cahilog, Department of Justice (DOJ) representative Lemuel Lagahit, and barangay elected officials Amando Tañara, Rubelie Codemos, Gina Iso, and Carlito Yocor. Photographs<sup>19</sup> of the proceedings were taken by PO3 Sherwin Loquino (PO3 Loquino).<sup>20</sup> Thereafter, accused-appellants were then brought to the police station where they were formally charged.<sup>21</sup>

A Request for Laboratory Examination and Drug Test<sup>22</sup> was made by PSI Tolentino. Chemistry Report No. D-254-14,<sup>23</sup> which was prepared by Police Chief Inspector and Forensic Chemist Josephine Suico Llena (PCI Llena), found that both plastic sachets contained methamphetamine hydrochloride or *shabu*.

#### *Version of the defense*

Accused-appellant Cahilo is the illegitimate son of accused-appellant Ramirez through the latter’s live-in partner, Paulina Cahilo Bendijo (Paulina). They lived together under one roof in Barangay Combado, Bacong, Negros Oriental.<sup>24</sup>

Professing innocence, accused-appellants asserted that they were merely caught in the middle of a police operation which was being conducted against one Basanio Bendijo (Basanio), a biological child of Paulina through a previous relationship.<sup>25</sup> He is, therefore, Ramirez’s stepson and Cahilo’s half-brother.

On July 28, 2014, at around 6:00 a.m., Ramirez was awakened from his sleep by shouts outside his house saying, “Basanio, get out! Basanio, get out!”<sup>26</sup> Ramirez rose from his bed and looked out the window to see what the commotion was about. However, he noticed that a gun was already pointed at him. He also saw more or less 20 police officers surrounding his house.<sup>27</sup>

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<sup>17</sup> Id. at 10.

<sup>18</sup> Records, p. 37.

<sup>19</sup> Id. at 39.

<sup>20</sup> TSN, October 1, 2015, pp. 3-6.

<sup>21</sup> TSN, September 29, 2015, p. 14.

<sup>22</sup> Records, p. 18.

<sup>23</sup> Id. at 21.

<sup>24</sup> TSN, November 3, 2015, p. 3.

<sup>25</sup> TSN, November 4, 2015, p. 5.

<sup>26</sup> TSN, November 3, 2015, p. 5.

<sup>27</sup> Id. at 5-6.

Some of the officers were in uniform while the others were wearing civilian attire.<sup>28</sup>

Upon being threatened with violence by the police officers, Ramirez and Cahilo went outside the house.<sup>29</sup> One of the police officers asked if either of them was Basanio, to which they replied in the negative.<sup>30</sup>

The officers then asked about the whereabouts of Basanio. Ramirez replied, "Probably just there in the house of my daughter, sir, because his motorcycle is just there."<sup>31</sup> The police officers then rushed to the nearby house of Ramirez's daughter, Mary Ann Cahilo (Mary Ann),<sup>32</sup> kicking open its door and entering the same. Basanio ran outside through the kitchen door but was eventually arrested.<sup>33</sup>

Meanwhile, the police officers handcuffed accused-appellants.<sup>34</sup> Paulina went outside to protest accused-appellants' arrest, but she was warned by the police officers that she would also be arrested if she did not keep quiet.<sup>35</sup>

Accused-appellants asserted that they could not have been engaged in the illegal drug trade because they had their own sources of livelihood. Ramirez worked as a welder<sup>36</sup> while Cahilo was a laborer and an on-call waiter for catering services.<sup>37</sup>

Moreover, Ramirez personally know PO2 Ejan and PO3 Aujero. PO2 Ejan lived beside the shop where Ramirez used to work. On the other hand, Ramirez knew the person who allegedly financed PO3 Aujero's education.<sup>38</sup> Thus, cognizant of the fact that PO2 Ejan and PO3 Aujero are police officers, accused-appellants could not have sold dangerous drugs to them during the supposed buy-bust operation.

### **Ruling of the RTC**

On December 3, 2015, the trial court rendered a Judgment<sup>39</sup> finding accused-appellants guilty as charged. The RTC found the testimonies of the witnesses for the prosecution to be credible, while accused-appellants' defense of frame-up was ruled to be very unlikely. Thus:

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<sup>28</sup> TSN, November 4, 2015, p. 6.  
<sup>29</sup> TSN, November 3, 2015, p. 6.  
<sup>30</sup> TSN, November 4, 2015, p.7-8.  
<sup>31</sup> Id. at 9.  
<sup>32</sup> Id. at 10.  
<sup>33</sup> Id. at 10-11.  
<sup>34</sup> TSN, November 3, 2015, p. 6.  
<sup>35</sup> Id. at 9.  
<sup>36</sup> Id. at 10.  
<sup>37</sup> TSN, November 4, 2015, p. 12.  
<sup>38</sup> TSN, November 3, 2015, p. 10.  
<sup>39</sup> CA *rollo*, pp. 27-39.

WHEREFORE, in the light of the foregoing, the two (2) accused RUDY RAMIREZ Y KILAT and RONIE CAHILO Y SARIO alias “Amboy” are hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 0.11 gram of *shabu* in violation of Section 5, Article II of RA 9165 and are hereby sentenced each to suffer a penalty of life imprisonment and each to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The two (2) heat-sealed transparent plastic sachets with markings “RSC-RKR-BB1-7-28-14” and “RSC-RKR-BB2-7-28-14”, with signatures and containing 0.06 gram and 0.05 gram of *shabu*, respectively, or for a total weight of 0.11 gram of *shabu*, are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused RUDY RAMIREZ Y KILAT and RONIE CAHILO Y SARIO alias “Amboy” shall be credited with the full time during which they have undergone preventive imprisonment, provided they agree voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.<sup>40</sup>

Undaunted, accused-appellants interposed an appeal with the CA.

In their Brief,<sup>41</sup> accused-appellants argued, *inter alia*, that no buy-bust operation actually took place; that there was no evidence that the police officers even coordinated with the Philippine Drug Enforcement Agency (PDEA); that no prior surveillance was actually undertaken before the police officers conducted a buy-bust operation; and that, accordingly, there is reasonable doubt as to whether they committed the crime charged.

In contrast, the appellee in its Brief<sup>42</sup> maintained that PDEA’s lack of participation in the buy-bust operation did not render invalid accused-appellants’ arrest; that a prior surveillance operation is not necessary to validate a buy-bust operation; that accused-appellants’ denial and alibi are not supported by the evidence on record; and that the supposed familiarity between accused-appellants and the poseur-buyers is irrelevant because drug pushers have a propensity to sell their prohibited articles to different persons, including law enforcement officers.

### **Ruling of the CA**

On August 31, 2017, the CA rendered the herein assailed Decision<sup>43</sup> affirming the ruling of the RTC. The appellate court held that, indeed, the prosecution was able to establish beyond reasonable doubt all the elements of

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<sup>40</sup> Id. at 38.

<sup>41</sup> Id. at 51-68.

<sup>42</sup> Id. at 82-97.

<sup>43</sup> *Rollo*, pp. 4-16.

the crime charged; that the chain of custody of the seized drug items was sufficiently established; and that the presumption of regularity favors the police officers who conducted the buy-bust operation.

Ultimately, the CA decreed:

WHEREFORE, the Judgment dated December 3, 2015 rendered by the Regional Trial Court, Branch 30, Dumaguete City in Criminal Case No. 2014-22434 convicting accused-appellants Rudy Ramirez y Kilat and Ronie Cahilo y Sario alias "Amboy" of Violation of Section 5, Article II of R.A. 9165 or the Comprehensive Dangerous Drugs Act is AFFIRMED.

The Jail Warden of Negros Oriental Provincial Detention and Rehabilitation Center, Capitol Area, Dumaguete City is DIRECTED to cause the immediate COMMITMENT of the accused-appellants to the New Bilibid Prisons, Muntinlupa City and to inform this Court, within five (5) days, from compliance of this order. The Director of Prisons of the New Bilibid Prisons shall submit his report acknowledging the commitment of the accused-appellants thereat within five (5) days from his receipt of the latter.

With costs against the accused-appellants.

SO ORDERED.<sup>44</sup>

Hence, the present recourse.

On June 21, 2018, the CA issued a Minute Resolution<sup>45</sup> giving due course to the Notice of Appeal<sup>46</sup> filed by accused-appellants, thereby ordering the elevation of the records of the instant case to this Court.

In a Resolution<sup>47</sup> dated November 7, 2018, this Court noted the records of the case forwarded by the CA. The parties were then ordered to file their respective supplemental briefs, should they so desire, within thirty (30) days from notice.

On February 21, 2019, the Office of the Solicitor General filed a Manifestation<sup>48</sup> on behalf of the People, stating therein that it would no longer file a supplemental brief because all of its contentions have been exhaustively ventilated in the Appellee's Brief<sup>49</sup> which it had previously submitted to the CA. On February 3, 2020, appellant, through the Public Attorney's Office, filed a similar Manifestation.<sup>50</sup>

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<sup>44</sup> Id. at 15-16.

<sup>45</sup> CA *rollo*, pp. 154-155.

<sup>46</sup> Id. at 123-128.

<sup>47</sup> *Rollo*, pp. 25-26.

<sup>48</sup> Id. at 27-30.

<sup>49</sup> CA *rollo*, pp. 82-97.

<sup>50</sup> *Rollo*, pp. 43-44.

The Court now resolves the instant case.

### Issue

The issue raised for the Court's consideration is whether or not the CA erred in affirming accused-appellants' conviction.

### Ruling of the Court

Section 5, Article II, of R.A. No. 9165 provides:

SECTION 5. *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. x x x

In order to sustain a conviction for Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of R.A. No. 9165, the law demands the establishment of the following elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>51</sup>

The commission of the offense of Illegal Sale of Dangerous Drugs merely requires the consummation of the selling transaction, which happens the moment the exchange of money and drugs between the buyer and the seller takes place.<sup>52</sup> What is material is the proof that the transaction or sale transpired, coupled with the presentation in court of the *corpus delicti*.<sup>53</sup>

In the instant case, the prosecution was able to establish the foregoing elements beyond moral certainty. Accordingly, We find the appeal to be bereft of merit.

*The witnesses for the prosecution were able to prove that a buy-bust operation took place and that accused-appellants were caught red*

<sup>51</sup> *Tolentino v. People*, G.R. No. 227217, February 12, 2020, citing *People v. Ismael*, 806 Phil. 21, 29 (2017).

<sup>52</sup> *People v. Yagao*, G.R. No. 216725, February 18, 2019.

<sup>53</sup> *People v. Pacnisen*, G.R. No. 234821, November 7, 2018, citing *People v. Dumangay*, 587 Phil. 730, 739 (2008).

*handed in the act of illegally selling dangerous drugs*

Buy-bust operations are legally sanctioned procedures for apprehending drug peddlers and distributors.<sup>54</sup> These operations are often utilized by law enforcers for the purpose of trapping and capturing lawbreakers in the execution of their nefarious activities.<sup>55</sup> In this regard, police authorities are given a wide discretion in the selection of effective means to apprehend drug dealers and the Court is hesitant to establish on a *priori* basis what detailed acts they might credibly undertake in their entrapment operations for there is no prescribed method on how the operation is to be conducted.<sup>56</sup> A prior surveillance, much less a lengthy one, is not necessary, especially where the police operatives are accompanied by their informant during the entrapment.<sup>57</sup> Moreover, coordination with the PDEA is not an indispensable requirement before police authorities may carry out a buy-bust operation.<sup>58</sup>

In the case at bar, accused-appellants were positively identified by the witnesses for the prosecution as the persons who were selling *shabu*. The prosecution was able to establish the fact of sale, starting from the time that PO2 Ejan approached Cahilo to inquire about buying *shabu*, which led to Ramirez delivering the illicit product at the hands of PO2 Ejan. Noteworthy is the fact that prior to receiving the plastic sachet of *shabu*, PO2 Ejan gave the marked money to Cahilo. Thus, the sale of *shabu* was consummated and the buy-bust operation was successful.

More so, the police officers involved in the buy-bust operation, as witnesses for the prosecution, were able to propound detailed and categorical testimonies on the conduct of the buy-bust operation. That accused-appellants personally knew PO2 Ejan and PO3 Aujero does not negate the entrapment conducted against them.

As the Court has noted many times, drug pushers have become increasingly daring in the operation of their illicit trade and have not hesitated to act openly, almost casually and even in scornful violation of the law, in selling prohibited drugs to any and all buyers.<sup>59</sup> We have also taken judicial notice of the fact that “drugs are sold even to police officers nowadays, some of whom are users, if not pushers themselves.”<sup>60</sup>

<sup>54</sup> *People v. Rebotazo*, 711 Phil. 150, 162 (2013).

<sup>55</sup> *People v. Ocampo*, 838 Phil. 157, 168 (2018), citing *People v. Rebotazo*, *supra*.

<sup>56</sup> *People v. Aplat, et al.*, 731 Phil. 29, 39 (2014).

<sup>57</sup> *People v. Jimenez*, G.R. No. 230721, October 15, 2018.

<sup>58</sup> *People v. Roa*, 634 Phil. 437, 446 (2010).

<sup>59</sup> *People v. Paredes*, 420 Phil. 124, 134 (2001).

<sup>60</sup> *People v. So*, 421 Phil. 929, 943 (2001), citing *People v. Alegro*, 341 Phil. 210, 214 (1997).



In fine, the direct account of law enforcement officers enjoy the presumption of regularity in the performance of their duties.<sup>61</sup> Alternatively stated, credence is given to prosecution witnesses who are police officers for they enjoy the presumption of having performed their duties in a regular manner.<sup>62</sup> Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies on the operation deserve faith and credit.<sup>63</sup> The evidence on record do not provide any compelling reason to stray from this rule.

*The unbroken chain of custody of the seized plastic sachets containing shabu was likewise established by the prosecution*

As a general rule, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.<sup>64</sup> The only way by which the State could lay the foundation of the *corpus delicti* is to establish beyond reasonable doubt the illegal sale or illegal possession of the dangerous drug by preserving the identity of the drug offered as evidence against the accused. The State does so only by ensuring that the drug presented in the trial court was the same substance bought from the accused during the buy-bust operation or recovered from his possession at the moment of arrest.<sup>65</sup> Thus, it is of utmost importance that the integrity and identity of the seized drugs must be shown to have been duly preserved.<sup>66</sup>

In *People v. Jaafar*,<sup>67</sup> the Court explained further:

Narcotic substances are not readily identifiable. To determine their composition and nature, they must undergo scientific testing and analysis. Narcotic substances are also highly susceptible to alteration, tampering, or contamination. It is imperative, therefore, that the drugs allegedly seized from the accused are the very same objects tested in the laboratory and offered in court as evidence. The chain of custody, as a method of authentication, ensures that unnecessary doubts involving the identity of seized drugs are removed.

It is the obligation of the prosecution to establish the chain of custody for evidence sent to testing laboratories — that is, to establish “the identity

<sup>61</sup> *People v. Cabiles*, 810 Phil. 969, 976 (2017).

<sup>62</sup> *People v. Alejandro*, 731 Phil. 662, 678 (2014).

<sup>63</sup> *People v. Judge Lagos*, 705 Phil. 570, 579 (2013), citing *People v. Dumangay*, supra note 53.

<sup>64</sup> *People v. De Dios*, G.R. No. 243664, January 22, 2020.

<sup>65</sup> *People v. Nepomuceno*, G.R. No. 216062, September 19, 2018, citing *People v. Pagaduan*, 641 Phil. 432, 442-443 (2010).

<sup>66</sup> *People v. Ubungen*, G.R. No. 225497, July 23, 2018.

<sup>67</sup> 803 Phil. 582, 591 (2017).

and integrity of physical evidence by tracing its continuous whereabouts.”<sup>68</sup> Indeed, the trial court requires a more stringent foundation “entailing a ‘chain of custody’ of the item with *sufficient completeness* to render it *improbable* that the original item has either been exchanged with another or been contaminated or tampered with.”<sup>69</sup> The prosecution must introduce sufficient proof so that a reasonable juror could find that the items seized are in “substantially the same condition” as when they were seized.<sup>70</sup> The government need only show that “it took reasonable precautions to preserve the original condition of the evidence.”<sup>71</sup>

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.<sup>72</sup> Compliance with the chain of custody procedure is strictly enjoined as the same has been regarded not merely as a procedural technicality but as a matter of substantive law.<sup>73</sup>

In relation to the chain of custody rule, Section 21(1), Article II of R.A. No. 9165 states:

SECTION. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

- (1) 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[.] (Emphasis ours)

<sup>68</sup> *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009).

<sup>69</sup> *United States v. Cardenas*, 864 F. 2d 1528 (1989).

<sup>70</sup> *United States v. Harrington*, 923 F. 2d 1371 (1991).

<sup>71</sup> *United States v. Prieto*, 549 F. 3d 513 (2008).

<sup>72</sup> *People v. Nandi*, 639 Phil. 134, 144-145 (2010), citing *People v. Zaida Kamad*, 624 Phil. 289, 304 (2010).

<sup>73</sup> *People v. Flores*, G.R. No. 241261, July 29, 2019.

Under the said provision, the physical inventory and taking of photographs of the seized items must be witnessed by three insulating witnesses (*i.e.* an elected public official, a representative from the media, and a representative from the DOJ). They must also sign the inventory and be given copies of the same.<sup>74</sup> The law requires the presence of an elected public official, as well as representatives from the DOJ and the media to ensure that the chain of custody rule is observed and thus, remove any suspicion of tampering, switching, planting, or contamination of evidence which could considerably affect a case.<sup>75</sup>

Here, the seized plastic sachets were duly marked by PO2 Ejan as “RSC-RKR-BB1-7-28-14” and “RSC-RKR-BB2-7-28-14”. The Certificate of Inventory<sup>76</sup> thereof was duly signed by three elected barangay officials, as well as representatives from the media and the DOJ. Photographs<sup>77</sup> of the acts of signing the said document were also taken by PO3 Loquino. PO2 Ejan was in possession of the items until they were brought to the drug laboratory for testing. Thus, compliance with the requirements on the presence of the three insulating witnesses was proven by the prosecution.

Likewise, the Court finds that the prosecution was able to establish the fourth link in the chain of custody of the seized items. Jurisprudence holds that “[i]n drug related cases, it is of paramount necessity that the forensic chemist testifies on the details pertaining to the handling and analysis of the dangerous drug submitted for examination *i.e.*, when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.”<sup>78</sup>

In the present case, PCI Llena testified that on July 28, 2014, she received PSI Tolentino’s Request for Laboratory Examination and Drug Test along with the seized plastic sachets;<sup>79</sup> that the plastic sachets were marked “RSC-RKR-BB1-7-28-14” and “RSC-RKR-BB2-7-28-14” with a net weight of 0.06 gram and 0.05 gram, respectively;<sup>80</sup> that the said plastic sachets delivered to her were placed inside a tape-sealed brown envelope;<sup>81</sup> that she conducted physical and chemical examinations to determine the contents thereof;<sup>82</sup> and that after the examinations, she resealed the specimens, placed

<sup>74</sup> *People v. Rodriguez*, G.R. No. 233535, July 1, 2019.

<sup>75</sup> *People v. Crispo*, 828 Phil. 416, 434 (2018).

<sup>76</sup> Records, p. 37.

<sup>77</sup> *Id.* at 38.

<sup>78</sup> *People v. Omamos*, G.R. No. 223036, July 10, 2019.

<sup>79</sup> TSN, September 23, 2015, p. 3.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

her own markings on the plastic sachets *i.e.*, “A1 D-254-14 JSL” and “A2 D-254-14 JSL”,<sup>83</sup> and placed the same in their evidence room.<sup>84</sup> PCI Llena’s qualifications and expertise as a forensic chemist were admitted by the opposing parties during pre-trial.<sup>85</sup>

In fine, there is no doubt that the plastic sachets of *shabu* which were presented by the prosecution before the court *a quo* were the same plastic sachets of *shabu* that were seized from accused-appellants.

*Accused-appellants’ defenses of denial and frame-up are intrinsically weak and not supported by the evidence on record*

Finally, accused-appellants’ defense of denial and frame-up is unavailing.

Denial is an intrinsically weak defense<sup>86</sup> and if uncorroborated regresses to blatant impotence.<sup>87</sup> A categorical and consistent positive identification, absent any showing of ill-motive on the part of the eyewitness testifying thereon, prevails over the defenses of denial and alibi, which if not substantiated by clear and convincing proof constitute self-serving evidence undeserving of weight in law.<sup>88</sup> Simply put, accused-appellants’ denial cannot prevail over the positive testimonies of the prosecution witnesses.<sup>89</sup>

On the other hand, the defense of frame-up is often put up in drugs cases in order to cast doubt on the credibility of police officers.<sup>90</sup> It is viewed with disfavor since it can easily be fabricated and is a common ploy in prosecution for violations of the Dangerous Drugs Law.<sup>91</sup> In order for the defense of frame-up to prosper, accused-appellants had the burden to prove the same with strong and convincing evidence, and defeat the presumption that the police officers properly performed their duties.<sup>92</sup> As found by the RTC and the CA, no such evidence were ever adduced by accused-appellants.

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<sup>83</sup> Id. at 5.

<sup>84</sup> Id. at 4.

<sup>85</sup> Records, pp. 58-65.

<sup>86</sup> *People v. Pulgo*, 813 Phil. 205, 220 (2017), citing *People v. Calara*, 710 Phil. 477, 488 (2013).

<sup>87</sup> *People v. Libre*, 792 Phil. 12, 31 (2106).

<sup>88</sup> *People v. Villamor*, 780 Phil. 817, 832 (2016).

<sup>89</sup> *People v. Saludes*, 451 Phil. 719, 727 (2003).

<sup>90</sup> *People v. Collado*, 711 Phil. 313, 327 (2013).

<sup>91</sup> *People v. Marcelo*, 741 Phil. 412, 431 (2014).

<sup>92</sup> *People v. Buesa*, G.R. No. 237850, September 16, 2020.

*As to the penalties*

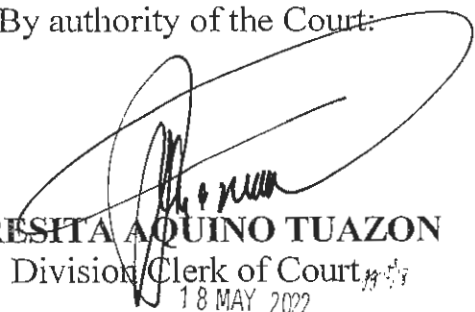
Section 5, Article II of R.A. No. 9165 penalizes illegal sale of *shabu* with the penalty of life imprisonment and a fine ranging from Five Hundred Thousand Pesos (₱500,000.00) to Ten Million Pesos (₱10,000,000.00).<sup>93</sup> The proper penalties were, therefore, imposed against accused-appellants.

It is a well-settled rule that 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 can be gathered from such findings.<sup>94</sup> This rule finds an even more stringent application where said findings are sustained by the [CA],<sup>95</sup> as in this case.

**WHEREFORE**, premises considered, the appeal is **DISMISSED** for lack of merit. The Decision dated August 31, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 02211 finding accused-appellants Rudy Ramirez y Kilat and Ronie Cahilo y Sario alias “Amboy” guilty beyond reasonable doubt of the crime charged in Criminal Case No. 2014-22434 for violation of Section 5, Article II of Republic Act No. 9165 is **AFFIRMED**.

**SO ORDERED.**” (Rosario, J., designated additional Member per Special Order No. 2835 dated July 15, 2021)

By authority of the Court:

  
**TERESITA AQUINO TUAZON**  
Division Clerk of Court  
18 MAY 2022

<sup>93</sup> Id.

<sup>94</sup> *People v. Gaspar*, 669 Phil. 122, 134 (2011), citing *People v. De Guzman*, 564 Phil. 282, 290 (2007).

<sup>95</sup> Id.

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RONIE CAHILO SARIO a.k.a. "Amboy"(reg)  
Accused-Appellants  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (reg)  
Bureau of Corrections  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 30  
Dumaguete City  
(Crim. Case No. 2014-22434)

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