



**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 6, 2022, which reads as follows:*

**“G.R. No. 253778 (Dennis Lares y Abundio and Rosalie Alia y Tabilin v. People of the Philippines).** – This Petition for Review on *Certiorari*<sup>1</sup> (petition) seeks to reverse and set aside the Decision<sup>2</sup> dated 27 December 2019 and Resolution<sup>3</sup> dated 10 July 2020 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12181. The CA affirmed with modification the Decision dated 06 July 2018 of Branch 27, Regional Trial Court (RTC) of San Fernando, La Union in Criminal Case No. 10524 convicting petitioners Dennis Lares y Abundio<sup>4</sup> (Dennis) and Rosalie Alia y Tabilin (Rosalie) (collectively, petitioners) for violation of Section 5, Article II of Republic Act No. (RA) 9165<sup>5</sup> or the Comprehensive Dangerous Drugs Act of 2002.

**Antecedents**

Petitioners were charged with violating Section 5, Article II of RA 9165, to wit:

That on or about the 13<sup>th</sup> day of September 2014, in the City of San Fernando, (La Union), Philippines, and within the jurisdiction of this Honorable Court, the above named accused conspiring, confederating and helping one another, did then and there willfully, unlawfully, and feloniously sell and deliver methamphetamine hydrochloride otherwise known as “SHABU” weighing ONE POINT ZERO NINE FOUR ZERO

<sup>1</sup> *Rollo*, pp. 16-39.

<sup>2</sup> *Id.* at 40-52; penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Walter S. Ong.

<sup>3</sup> *Id.* at 54-56.

<sup>4</sup> Referred to as “Dennis Lares y Abundo” in some parts of the *rollo* (see *id.* at 41 and 51).

<sup>5</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: 07 June 2002.

(1.0940) GRAMS placed in a transparent plastic sachet to PO3 Armand S. Bautista, who posed as buyer thereof and used marked money, three (3) pieces One Thousand Pesos bill bearing serial No. B971971, EY48496 and KB441273, one (1) piece Five Hundred Peso Bill bearing Serial No. CP555529 and three (3) pieces One Hundred Peso Bill bearing Serial No. SX579520, AM248489 and HN613665 without the necessary authority or permit from the proper government authorities.

CONTRARY TO LAW.<sup>6</sup>

Upon arraignment, petitioners pleaded not guilty.<sup>7</sup> Trial on the merits ensued after the pre-trial conference.<sup>8</sup>

### Version of the Prosecution

In the evening of 13 September 2014, Police Officer 3 Armand Bautista (PO3 Bautista) was on duty when a confidential informant (CI) came into the San Fernando City Police Station in La Union.<sup>9</sup> The CI reported that a certain alias Dennis, later identified as herein petitioner Dennis, was peddling *shabu* in *Barangay Ilocanos Sur*, San Fernando City, La Union.<sup>10</sup>

PO3 Bautista relayed this information to their intelligence officer, Police Inspector Juanito Buaron, Jr. (P/Insp. Buaron).<sup>11</sup> Upon the instruction of P/Insp. Buaron, the CI called Dennis and informed the latter that he had found a buyer. The CI arranged for the purchase of one (1) gram of *shabu* for ₱3,800.00, with the sale to take place at a unit on the 4<sup>th</sup> floor of the Department of Environment and Natural Resources (DENR) Building in *Barangay Lingsat*, San Fernando City, La Union.<sup>12</sup>

In coordination with the Philippine Drug Enforcement Agency, the police officers formed a team for the buy-bust operation. PO3 Bautista was designated as the poseur-buyer, with Police Officer 1 Yvonne Garcia (PO1 Garcia) as back-up. The rest of the team members were assigned as perimeter security. PO3 Bautista then prepared the buy-bust money, marked with his initials, "ASB."<sup>13</sup>

At around 10 p.m., the buy-bust team proceeded to the DENR Building. PO3 Bautista, PO1 Garcia, and the CI waited inside the unit, while the rest of team waited at the rooftop. Dennis soon arrived with a female companion, later identified as herein petitioner Rosalie. After introductions and a brief conversation, PO3 Bautista asked for the *shabu*. Dennis then

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<sup>6</sup> Id. at 42-43.

<sup>7</sup> Id. at 43.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id. at 43-44.

<sup>13</sup> Id.

handed PO3 Bautista one (1) heat-sealed transparent plastic sachet containing suspected *shabu*.<sup>14</sup>

PO3 Bautista examined the sachet and put it in his pocket. Rosalie then asked for the payment, and PO3 Bautista handed her the buy-bust money. After the exchange, PO3 Bautista made the pre-arranged signal and the rest of team converged into the unit.<sup>15</sup> Upon petitioners' arrest, PO3 Bautista recovered two cellphones from Dennis, while PO1 Garcia recovered the buy-bust money from Rosalie.<sup>16</sup>

Immediately after, PO3 Bautista marked the sachet with his initials "ASB-1" and the word "sold." The seized items were then inventoried and photographed at the place of arrest, in the presence of petitioners, *barangay* chairman Alejandro Mondina, Jr., and media representative Rico Valdez from DNZL Radio.<sup>17</sup> Thereafter, PO3 Bautista brought the sachet to the crime laboratory. After qualitative examination, it was found that the seized item contained methamphetamine hydrochloride, a dangerous drug.<sup>18</sup>

PO3 Bautista, forensic chemist Police Senior Inspector Theresa Amor Manuel-Sobejana (PSI Manuel-Sobejana), and PO1 Garcia testified for the prosecution.<sup>19</sup>

### Version of the Defense

On the other hand, petitioners denied the charges against them. Rosalie testified that on 13 September 2014, she and her live-in partner, Dennis, travelled from Manila to La Union to borrow money from Rosalie's cousin, Jennylyn Susuki (Jennylyn). The money was supposed to finance Rosalie's gall stone operation. When petitioners failed to contact Jennylyn, Dennis called his friend, a certain Cathy Leonen (Cathy), who lived at the DENR Building in *Barangay* Lingsat. Rosalie and Dennis spent the night at Cathy's place.<sup>20</sup>

The next day, Dennis and Rosalie went to Jennylyn's house. They were able to borrow ₱2,500.00 from Jennylyn's husband. Realizing that the money was not enough for Rosalie's operation, Dennis texted Cathy and asked if the latter could lend them money. Cathy agreed and told them to proceed to her place.<sup>21</sup>

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<sup>14</sup> Id. at 44.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id. at 44-45.

<sup>19</sup> Id. at 43.

<sup>20</sup> Id. at 45.

<sup>21</sup> Id.

When petitioners reached Cathy's place, they saw Cathy sitting on the sofa. Cathy instructed petitioners to sit with her. As they sat, they noticed a lighter, a foil, and a small lamp placed on the table. Cathy explained that she had visitors. At that point, the doors of the rooms swung open and around seven people came out.<sup>22</sup> One of them informed petitioners that they were police officers.<sup>23</sup>

Thereafter, Dennis was frisked and handcuffed. Rosalie was also frisked and her money was taken. Around 30 minutes later, two persons, who were apparently contacted by the police, arrived. These two signed a piece of paper. Thereafter, petitioners were brought to the police station.<sup>24</sup>

Dennis corroborated the testimony of Rosalie. In addition, he stated that while they were being frisked, Cathy uttered: "Forgive me. I do not know everybody. I was placed in a tight situation." In response, Dennis said: "Of all people you knew, why us? This is the first time we went to your place, and yet you did this to us."<sup>25</sup>

### **Ruling of the RTC**

The RTC convicted Dennis and Rosalie in a Decision dated 06 July 2018, the *fallo* of which reads:

WHEREFORE, premises considered, the accused Dennis Lares y Abundo and Rosalie Alia y Tabilin are found GUILTY beyond reasonable doubt of Illegal Sale of Dangerous Drugs penalized under Section 5 Article II of Republic Act No. 9165 and are each sentenced to suffer Life Imprisonment and ordered to pay a fine of Three Hundred Thousand Pesos (P300,000.00), with subsidiary imprisonment.

Meantime, the subject item in this case is hereby forfeited in favor of the government and to be disposed of in accordance with the law.

SO ORDERED.<sup>26</sup>

The RTC found that the prosecution proved all the elements of the crime beyond reasonable doubt.<sup>27</sup> Petitioners appealed the judgment to the CA.

### **Ruling of the CA**

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<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id. at 45-46.

<sup>25</sup> Id. at 46.

<sup>26</sup> Id. at 42.

<sup>27</sup> Id. at 41.

In the assailed Decision<sup>28</sup> dated 27 December 2019, the CA affirmed the RTC Decision, but increased the fine from ₱300,000.00 to ₱500,000.00, thus:

**WHEREFORE**, premises considered, the Decision dated 06 July 2018 of the Regional Trial Court, Branch 27, San Fernando, La Union, is **AFFIRMED** with **MODIFICATION** in that, in addition to the penalty of life imprisonment, accused-appellants Dennis Lares y Abundo and Rosalie Alia y Tabilin are each ordered to pay the fine of Five Hundred Thousand Pesos (Php500,000.00).

**SO ORDERED.**<sup>29</sup>

The CA gave credence to the testimonies of PO3 Bautista and PO1 Garcia.<sup>30</sup> It ruled that the defense failed to show any ill motive or malice on the part of the arresting officers that would make them falsely testify against petitioners.<sup>31</sup>

The CA also found that the police complied with the chain of custody requirements under Section 21, Article II of RA 9165, as amended by RA 10640.<sup>32</sup> The seized items were immediately marked, inventoried, and photographed at the place of arrest and in the presence of a *barangay* chairman and a media representative.<sup>33</sup>

Nonetheless, the CA modified the fine to conform with Section 5, Article II of RA 9165, which imposes a fine ranging from ₱500,000.00 to ₱10,000,000.00.<sup>34</sup> The CA denied petitioners' Motion for Reconsideration in its Resolution<sup>35</sup> dated 10 July 2020.

Hence, this petition.

### Issue

The focal issue for resolution is whether the CA erred in finding petitioners guilty beyond reasonable doubt of illegal sale of dangerous drugs.

Petitioners claim that the police failed to comply with the chain of custody requirements, considering that the three witnesses required by law were not present during the buy-bust operation and the warrantless arrest.<sup>36</sup> Petitioners aver that this absence should have been sufficiently explained

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<sup>28</sup> Id. at 40-52.

<sup>29</sup> Id. at 51.

<sup>30</sup> Id. at 47-48.

<sup>31</sup> Id. at 48.

<sup>32</sup> Id. at 49-50.

<sup>33</sup> Id. at 50.

<sup>34</sup> Id. at 51.

<sup>35</sup> Id. at 54-56.

<sup>36</sup> Id. at 26.

and justified.<sup>37</sup>

### Ruling of the Court

The petition is bereft of merit.

To secure a conviction for illegal sale of dangerous drugs, the following elements must be established: (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.<sup>38</sup> The identity of the seized drug must be established with moral certainty.<sup>39</sup> Thus, in order to obviate any unnecessary doubts on such identity, the prosecution has to show an unbroken chain of custody over the same.<sup>40</sup> As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same.<sup>41</sup>

The law further requires that the inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his or her representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640, a representative from the media, the Department of Justice, **and** any elected public official; or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service **or** the media.<sup>42</sup>

Petitioners insist on the presence of three witnesses, as required under RA 9165 prior to its amendment. Notably, however, the buy-bust operation was conducted on 13 September 2014, or after RA 10640 took effect.<sup>43</sup> Hence, it is sufficient that an elected public official **and** a media representative **or** a prosecutor be present. Moreover, it is enough that the required witnesses be present at the physical inventory and photography of the seized items.<sup>44</sup>

We find that the police officers complied with the procedures laid down in Section 21, Article II of RA 9165, as amended by RA 10640. *First*, PO3 Bautista immediately marked the sachet at the place of seizure and in the presence of petitioners.<sup>45</sup> *Second*, the inventory and taking of photographs were done at the place of arrest, and in the presence of

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<sup>37</sup> Id. at 36.

<sup>38</sup> *People v. Villalon, Jr.*, G.R. No. 249412, 15 March 2021, citing *People v. De Dios*, G.R. No. 243664, 22 January 2020.

<sup>39</sup> *People v. Rivera*, G.R. No. 252886, 15 March 2021.

<sup>40</sup> Id.

<sup>41</sup> *Lindongan v. People*, UDK-16615, 15 February 2021.

<sup>42</sup> Id. Citations omitted.

<sup>43</sup> In *People v. Gutierrez*, 842 Phil. 681 (2018), the Court noted that RA 10640 appears to have become effective on 07 August 2014, or 15 days after its publication in two newspapers of general circulation.

<sup>44</sup> See *People v. Dela Cruz*, G.R. No. 238212, 27 January 2020. Citations omitted.

<sup>45</sup> *Rollo*, p. 91.

petitioners, an elected public official, and a member of the media.<sup>46</sup> *Third*, the seized item was promptly and personally delivered by PO3 Bautista to the crime laboratory, where PSI Manuel-Sobejana performed the necessary tests thereon.<sup>47</sup> *Fourth*, after the seized item, duly marked, tested positive for *shabu*, PSI Manuel-Sobejana stored the item for safekeeping. She herself brought the item to court when she testified. These evince sufficient compliance with the chain of custody rule, and, thus, the integrity and evidentiary value of the *corpus delicti* had been preserved.<sup>48</sup>

Hence, We find no error in the CA's Decision affirming petitioners' conviction. As aptly emphasized by the CA, the prosecution was able to establish the elements of illegal sale through the testimony of the poseur-buyer himself, PO3 Bautista. He positively identified petitioners as the persons who, conspiring together, sold the *shabu* and received the marked money. PO1 Garcia corroborated PO3 Bautista's testimony. Since there is no indication that the CA and the trial court overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings. The trial court is in the best position to assess and determine the credibility of the witnesses presented by both parties.<sup>49</sup>

As to petitioners' defenses, denial and frame-up are invariably viewed with disfavor because such defenses can easily be fabricated.<sup>50</sup> In the absence of clear and convincing evidence, these defenses cannot prevail over the positive testimonies of the prosecution witnesses.<sup>51</sup>

Given the foregoing, petitioners' conviction must stand. Further, the CA correctly increased the amount of the fine from ₱300,000.00 to ₱500,000.00, in accordance with Section 5, Article II of RA 9165.

**WHEREFORE**, the Petition is hereby **DENIED**. Accordingly, the Decision dated 27 December 2019 and Resolution dated 10 July 2020 of the Court of Appeals in CA-G.R. CR-HC No. 12181 finding petitioners Dennis Lares y Abundio and Rosalie Alia y Tabilin guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165 are **AFFIRMED**. Petitioners are each ordered to pay a fine of ₱500,000.00.

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<sup>46</sup> Id.

<sup>47</sup> Id.

<sup>48</sup> See *People v. Dela Cruz*, supra; See also *People v. Esguerra*, G.R. No. 243986, 22 January 2020.

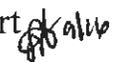
<sup>49</sup> *People v. De Dios*, G.R. No. 243664, 22 January 2020.

<sup>50</sup> *People v. Lung Wai Tang*, G.R. No. 238517, 27 November 2019, citing *People v. Bala*, 741 Phil. 254 (2014).

<sup>51</sup> *People v. Alberto*, 625 Phil. 545, 554 (2010).

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court 

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**168-I**

SEP 22 2022

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