



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated October 5, 2022 which reads as follows:*

**“G.R. No. 254157 (*Graciano Nilo y Barlinan a.k.a. “Boyet” v. People of the Philippines*).** – This Petition for Review on *Certiorari*<sup>1</sup> seeks to reverse and set aside the Decision<sup>2</sup> dated 24 May 2019 and the Resolution<sup>3</sup> dated 23 September 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 41489. The CA affirmed the Decision<sup>4</sup> dated 05 February 2018 of Branch 273, Regional Trial Court (RTC) of Marikina City in Criminal Case No. 2014-4425-D-MK, finding Graciano Nilo y Barlinan a.k.a. “Boyet” (petitioner) guilty beyond reasonable doubt of violation of Section 11, paragraph 3, Article II of Republic Act No. (RA) 9165,<sup>5</sup> otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

**Antecedents**

The instant case stemmed from four sets of Information filed before the RTC charging petitioner with the offenses of Illegal Sale and Illegal Possession of Dangerous Drugs, particularly methamphetamine hydrochloride or *shabu*, and his co-accused Theresa Mañalac y Fronda (Mañalac) with the offenses of Illegal Possession of *shabu* and drug paraphernalia. The accusatory portions of the Informations read:

Criminal Case No. 2014-4422-D-MK

<sup>1</sup> *Rollo*, pp. 13-32.

<sup>2</sup> *Id.* at 34-50; penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Elihu A. Ybañez and Gabriel T. Robeniol.

<sup>3</sup> *Id.* at 52-53; penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Gabriel T. Robeniol and Ruben Reynaldo G. Roxas.

<sup>4</sup> *Id.* at 69-90; penned by Presiding Judge Romeo Dizon Tagra.

<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.

(Section 11, Article II, R.A. 9165 against Mañalac)

That on or about the 27th day of August 2014, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess or otherwise use any dangerous drugs, willfully and unlawfully have in her possession, direct custody and control one (1) heat sealed transparent plastic sachet of white crystalline substance, weighing 0.03 gram subsequently marked with "TMF-2-8-27-14" positive to the test for **Methamphetamine Hydrochloride**, a dangerous drug, in violation of the above-cited law.

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

Criminal Case No. 2014-4423-D-MK

(Section 5, Article II, R.A. 9165 against petitioner)

That on or about the 27th day of August 2014, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did, then and there willfully, unlawfully and knowingly sell to **PO3 JAYSON C. RAEL**, a poseur buyer, **0.08 gram** of white crystalline substance subsequently marked with "GBN-BUY BUST 8-27-14", tested positive for **Methamphetamine Hydrochloride**, a dangerous drug, in violation of the above-cited law.

**CONTRARY TO LAW.<sup>7</sup>**

Criminal Case No. 2014-4424-D-MK

(Section 12, Article II, R.A. 9165 against Mañalac)

That on or about the 27th day of August 2014, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and knowingly have in her possession, direct custody and control the following drug paraphernalia, to wit: one aluminum foil strip with traces of shabu, One improvised water pipe, one rolled aluminum foil with traces of shabu, One open transparent plastic sachet with traces of shabu and two disposable lighters, all instruments or paraphernalia fit or intended for smoking shabu, a dangerous drug, in violation of the above-cited law.

**CONTRARY TO LAW.<sup>8</sup>**

Criminal Case No. 2014-4425-D-MK

(Section 11, Article II, R.A. 9165 against petitioner)

That on or about the 27th day of August 2014, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess or otherwise use any dangerous drugs, willfully and unlawfully have in his

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<sup>6</sup> Id. at 35.

<sup>7</sup> Id.

<sup>8</sup> Id. at 35-36.

possession, direct custody and control one (1) heat sealed transparent plastic sachet of white crystalline substance weighing 0.05 gram subsequently marked with “GBN-1-8-27014” positive for **Methamphetamine Hydrochloride**, a dangerous drug, in violation of the above-cited law.

### CONTRARY TO LAW.<sup>9</sup>

The four cases were consolidated. Upon arraignment, petitioner and Mañalac pleaded not guilty to the offense charged against them. After pre-trial was terminated, trial on the merits ensued.<sup>10</sup>

### Version of the Prosecution

On 20 August 2014, at around 3:00 p.m., while Police Officer 3 Jason Rael (PO3 Rael) was in the Station Anti-Illegal Drugs Special Operation Task Group (SAID-SOTG) office in Marikina City, their chief received a Survey Form from the Marikina Anti-Drug Abuse Council (MADAC) that a certain Graciano Nilo y Barlinan, a.k.a. Boyet, later identified as petitioner, was using illegal drugs.<sup>11</sup>

Upon verification, the police confirmed petitioner’s rampant selling of illegal drugs of petitioner at No. 92 Malvar Extension, Jesus dela Peña, Marikina City. Thus, on 27 August 2014, the chief of SAID-SOTG formed a group to conduct a buy-bust operation. PO3 Jonar O. Olveda (PO3 Olveda) filled out the Coordination Form and the Pre-Operational Report. Then, they organized a team, with PO3 Rael as the poseur-buyer. He was given a ₱500.00 bill and five pieces of ₱100.00 bills, or a total of ₱1,000.00, as marked money. PO3 Rael put the initials “JR” on the left portion of the bills. However, only three ₱100.00 bills were used in the buy-bust operation and the rest were given back to their chief.<sup>12</sup>

At around 11:30 a.m., the team, composed of Police Inspector Jerry E. Flores, PO3 Olveda, PO3 Virgilio Calanoga, PO3 Deogracias Basang, PO2 Roland Panis (PO2 Panis), PO2 Manuel Diquit, PO2 Ronel Agsawa, PO2 Noiberto B. Saboriendo and PO1 Angie B. Oca, proceeded to the target area using one private vehicle and two motorcycles. A certain PO1 Opelac was the immediate back-up. They agreed that when they arrived at the target place, the confidential informant (CI) would proceed first to the house of the suspect and then, PO3 Rael would follow. At around 12:00 noon, they arrived at the house. The CI knocked at the door and heard a male person ask, “*sino ‘yan?’*” The CI replied, “*Boyet, kukuha kami.*” Then, the person named Boyet opened the door. PO3 Rael peeped through the door and they were allowed to go inside.<sup>13</sup>

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<sup>9</sup> Id. at 36.

<sup>10</sup> Id.

<sup>11</sup> Id. at 37.

<sup>12</sup> Id.

<sup>13</sup> Id.

Inside the house, there was a woman at the *sala* fixing some drug paraphernalia, like the aluminum foil and water pipe placed on a wooden plank on top of a basket of clothes. The CI introduced PO3 Rael to Boyet as the *scorer* or buyer of *shabu*. Boyet asked PO3 Rael how much he was going to buy, to which the latter answered, “*Limang daan lang po.*” However, Boyet said, “*Isang tarya (small plastic sachet) lang pala ang pwede kong ibenta sayo kase panggamit na namin ang natitira dito.*” Then, Boyet got a black purse from his pocket, from which he took a plastic sachet containing a white crystalline substance. He showed it to PO3 Rael and told him, “*Hanggang tatlong daan na lang yan, kunin mo na.*” PO3 Rael took out three pieces of the marked ₱100.00 bills and gave them to Boyet. The latter took the money and then placed them on the table with the drug paraphernalia. He took out the plastic sachet and handed it to PO3 Rael. The latter examined the plastic sachet and put it in his left pocket. Thereafter, he made the pre-arranged signal. When he noticed that his companions were already outside the house of Boyet, PO3 Rael introduced himself as a police officer and arrested Boyet and the woman, later identified as Mañalac. He informed them of their rights and the crimes they had committed.<sup>14</sup>

Following their arrest, PO3 Rael confiscated the black purse from petitioner, which yielded one more plastic sachet of suspected *shabu*.<sup>15</sup> PO3 Rael marked the plastic sachet sold to him as “GBN-BUYBUST 8-27-14” and the one he recovered from the black purse as “GBN-1-8-27-14.” Meanwhile, he recovered a plastic sachet with suspected *shabu*, which he marked as “TMF-2 8-27-14,” from Mañalac.

PO3 Rael also marked the drug paraphernalia placed on the table, namely: one piece black-colored plastic case (marked as TMF-1 8-27-14), which contained the aluminum foils and the heat-sealed plastic sachets from Mañalac; one piece aluminum foil strip with traces of suspected *shabu* (marked as TMF-3 8-27-14); one rolled aluminum foil used as improvised tooter with traces of *shabu* (marked as TMF-4 8-27-14); one piece orange-colored lighter (marked as TMF-7 8-27-14) with strip of aluminum foil used as burner (marked as TMF-5 8-27-14); and one piece open transparent plastic sachet with traces of suspected *shabu* (marked as TMF-6 8-27-14). Also recovered was the black coin purse (marked as GBN-2 8-27-14) used by petitioner in storing the plastic sachets of suspected *shabu*.

Present during the marking and inventory of the confiscated drug items were the *barangay* officials, Councilors Frankie Ayson and Ronnie Acuña, and a media representative of “*Remate*,” a local tabloid. PO2 Panis took pictures. Thereafter, they proceeded to their office to prepare the pertinent documents.<sup>16</sup>

From the place of arrest until the SAID-SOTG office, PO3 Rael was

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<sup>14</sup> Id. at 37-38.

<sup>15</sup> Id. at 74.

<sup>16</sup> Id. at 38-39.

in possession of the suspected drugs. Upon arriving at the station, PO3 Rael filled out the Chain of Custody Form, Request for Laboratory Examination, and Request for Drug Test Examination. He gave the documents and the confiscated drugs to Police Chief Inspector Margarita Libres (PCI Libres). The latter, in turn, made the markings on the specimen (A-G) and proceeded with the qualitative examination of the confiscated drugs. The specimen yielded a positive result for the presence of methamphetamine hydrochloride, a dangerous drug. She issued Physical Science Report No. MCSO-D-094-14. She sealed the drugs and presented them in court.<sup>17</sup>

### Version of the Defense

Mañalac denied the accusations against them. She testified that on or about 9:00 a.m. of 27 August 2014, she was at her house at 92-B Malvar Extension, Jesus dela Peña, Marikina City. A certain Balong came to their house and was looking for her common-law husband, herein petitioner. Mañalac told him that petitioner was sleeping upstairs but Balong insisted on talking to him. When petitioner heard them arguing, he went downstairs. Mañalac offered them food but petitioner told her he wanted coffee instead. Mañalac gave him money to buy coffee and then proceeded to gather her laundry just outside their door while Balong and petitioner were talking inside. She then went upstairs to fold the clothes, but her husband asked for money once again. Balong then came upstairs. Mañalac asked Balong why he went upstairs but suddenly, about six men with guns followed him. The men held and frisked the three of them, and then, they handcuffed petitioner.

When Mañalac asked them what they needed and why they were handcuffing her husband, the men did not answer. Instead, they searched the house. Mañalac made some noise to attract the attention of their neighbors, but every time she did that the men would hurt petitioner. Then, they were brought downstairs. Petitioner might have been too scared because he defecated on himself. Mañalac continued making noise, but the men threatened to slap her if she did not stop. Then she heard one of them say, “*posasan mo na nga rin ‘yan.*” So one of the men handcuffed her.<sup>18</sup>

Downstairs, Mañalac saw Balong sitting crossed-legged at their *sala*. The men told him to go and he did. Thereafter, the men did some documentation. A *kagawad* was called to witness when petitioner and Mañalac were made to sign a document. The *kagawad* told petitioner that there was evidence against them. Mañalac explained that the evidence was not theirs, but the men did not listen to them. At about 11:00 a.m., they were brought to the police station.<sup>19</sup>

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<sup>17</sup> Id. at 39.

<sup>18</sup> Id. at 39-40.

<sup>19</sup> Id. at 40.

Petitioner corroborated his wife's testimony.<sup>20</sup> He further added that he saw the policemen fixing the contents of a black plastic container on the table and denied that PO3 Rael purchased shabu from him.<sup>21</sup> On the other hand, Rufina likewise corroborated her parents' testimonies.<sup>22</sup>

### **Ruling of the RTC**

On 05 February 2018, the RTC rendered its Decision finding petitioner and Mañalac guilty beyond reasonable doubt of the crimes charged, to wit:

WHEREFORE, in light of all the foregoing, the court resolves to render judgment as follows:

1. **Acquitting** accused Theresa Mañalac y Fronda for violation of Section 11, Article II, RA 9165, in Criminal Case No. 2014-4422- D-MK;
2. **Acquitting** accused Graciano Nilo y Barlinan, a.k.a. Boyet, for violation of Section 5, Article II, RA 9165, in Criminal Case No. 2014-4423-D-MK;
3. Finding accused Theresa Mañalac y Fronda **guilty beyond reasonable doubt** for illegal possession of drug paraphernalia under Section 12, Article II, RA 9165, in Criminal Case No. 2014- 4424-D-MK and sentencing her to an indeterminate penalty of imprisonment ranging from six (6) months and one (1) day, as minimum, to two years, as maximum, and to pay a fine of P10,000.00; and
4. Finding accused Graciano Nilo y Barlinan, @ Boyet **guilty beyond reasonable doubt** for the illegal possession of 0.05 gram of metamphetamine hydrochloride (shabu) under Section 11 (3), Article II, RA 9165, in Criminal Case No. 2014-4425-D-MK and sentencing him to an indeterminate penalty of imprisonment ranging from twelve (12) years and one (1) day, as minimum, to 14 years, as maximum, and to pay a fine of P300,000.00.

The methamphetamine hydrochloride (shabu) and drug paraphernalia described in the information of these cases are hereby confiscated in favor of the government to be disposed of in the manner provided for by law.

SO ORDERED.<sup>23</sup>

The trial court held that the elements of illegal sale of the prohibited drugs were not fully established since there was no testimony as to the recovery of the buy-bust money from petitioner. However, the RTC convicted him of illegal possession of the prohibited drugs in Criminal Case No. 2014-4425-D-MK even if the body of the Decision failed to discuss the same in detail. On the other hand, Mañalac was also acquitted of illegal possession of the prohibited drugs, but convicted of illegal possession of

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<sup>20</sup> Id. at 40-41.

<sup>21</sup> Id. at 41.

<sup>22</sup> Id.

<sup>23</sup> Id. at 89-90.

drug paraphernalia. The RTC gave credence to PO3 Rael's testimony that he saw her fixing the same when he went inside their house.<sup>24</sup>

Aggrieved, petitioner filed his Notice of Appeal with the CA.

### **Ruling of the CA**

On 24 May 2019, the CA affirmed petitioner's conviction, *viz.*:

**WHEREFORE**, the appeal is **DISMISSED**. The *Decision* dated February 5, 2018 of the RTC, Branch 273, Marikina City, in Criminal Case No. 2014-4425-D-MK, is hereby **AFFIRMED**.

**SO ORDERED.**<sup>25</sup>

The CA held that while the RTC failed to exhaustively discuss its decision in convicting petitioner under Section 11, Article II of RA 9165, PO3 Rael's testimony and his *Sinumpaang Salaysay* fully established the incident leading to the confiscation of the black purse where the sachet of *shabu* marked as "GBN-1 8-27-14" was found.<sup>26</sup>

Further, the CA ruled that the prosecution proved beyond reasonable doubt the presence of all the elements of illegal possession of the dangerous drugs, and the compliance with the chain of custody rule.<sup>27</sup>

Petitioner's Motion for Reconsideration was denied by the CA in its Resolution dated 23 September 2020.<sup>28</sup> Hence, this petition.<sup>29</sup>

### **Issue**

The issue in this case is whether the CA erred in affirming petitioner's conviction for violation of Section 11 of RA 9165 in Criminal Case No. 2014-4425-D-MK.<sup>30</sup>

### **Ruling of the Court**

We deny the petition.

Preliminarily, We emphasize that where there is a conflict between the dispositive part and the opinion of the court contained in the text or body of the decision, the former must prevail over the latter on the theory that the dispositive portion is the final order, while the opinion is merely a statement ordering nothing.<sup>31</sup> While the body of the decision, order, or resolution might

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<sup>24</sup> Id. at 76-88.

<sup>25</sup> Id. at 50.

<sup>26</sup> Id. at 44-45.

<sup>27</sup> Id. at 47-49.

<sup>28</sup> Id. at 52-53.

<sup>29</sup> Id. at 13-30.

<sup>30</sup> Id. at 101-105.

<sup>31</sup> *BBB v. People*, G.R. No. 249307, 27 August 2020.

create some ambiguity in the manner the court's reasoning preponderates, it is the dispositive portion thereof that finally invests rights upon the parties, sets conditions for the exercise of those rights, and imposes the corresponding duties or obligations.<sup>32</sup> Indeed, it is the dispositive part of the judgment that actually settles and declares the rights and obligations of the parties, finally, definitively, and authoritatively, notwithstanding the existence of inconsistent statements in the body that may tend to confuse.<sup>33</sup>

In this case, while the RTC mentioned that the prosecution was unable to establish how the black coin purse was found, the same appears to be a continuation of its discussion regarding the prosecution's failure to establish the elements for the illegal sale of drugs. In contrast, the RTC discussed the prosecution's compliance with the chain of custody as regards the possession of illegal drugs. It also stated that "while accused Nilo cannot be held liable for violation of Section 5, he may nonetheless be held liable for illegal 'possession' of dangerous drugs under Section 11, Article II, R.A. 9165." The RTC adjudged that the *corpus delicti* of the shabu was duly established by the prosecution.<sup>34</sup> As such, the RTC's pronouncement in the dispositive portion as to the guilt of petitioner prevails.

Moreover, it is axiomatic that an appeal in criminal cases leaves the whole case open for review, and the appellate court has the duty to correct, cite, and appreciate errors in the appealed judgment, whether assigned or unassigned. The appeal vests in the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>35</sup> The CA, in this case, judiciously examined the records, and affirmed petitioner's conviction for illegal possession of dangerous drugs.

We agree with the CA.

The 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.<sup>36</sup>

We find all these elements present in the case at bar. Indeed, the prosecution established the elements of illegal possession with the testimony of PO3 Rael and the presentation of the *corpus delicti* in court. Petitioner was found in possession of an item or object later identified as a prohibited drug upon his arrest. He freely and consciously possessed said prohibited drug, without any authority or license to possess the same.<sup>37</sup>

<sup>32</sup> *Florentino v. Rivera*, 515 Phil. 494, 502 (2006).

<sup>33</sup> *Light Rail Transit Authority v. Court of Appeals*, 486 Phil. 315, 327 (2004).

<sup>34</sup> *Rollo*, pp. 83, 85-86.

<sup>35</sup> *See Santos v. People*, 838 Phil. 568, 582 (2018).

<sup>36</sup> *See People v. Castillo*, G.R. No. 238339, 07 August 2019.

<sup>37</sup> *Rollo*, pp. 47, 83.

The Court likewise holds that there was compliance with the chain of custody requirements, as well as those on the preservation and disposition of dangerous drugs under Section 21 of RA 9165, as amended by RA 10640,<sup>38</sup> the law applicable at the time of the commission of the offenses charged.

PO3 Rael immediately marked the seized items, including the plastic sachet marked as “GBN-1 8-27-14,” at the place of seizure and took custody of the same. The inventory and taking of photographs of the seized items were done at the place of the crime and in the presence of petitioner, Mañalac, and the two of the mandatory witnesses: a representative from the media and two elected *barangay* officials. The photographs submitted also show that the confiscated items were marked at the house of petitioner. PO3 Rael personally turned over the seized items to PCI Libres. The seized items having tested positive for *shabu*, PCI Libres kept the same until its presentation in court.<sup>39</sup>

At this juncture, We confirm the CA’s findings as to the establishment of how the sachet of *shabu* subject of the instant case was recovered. In his *Sinumpaang Salaysay*, PO3 Rael said:

x x x x

*Na, aking narekober and tatlong pirasong isang daang piso na aking ginamit bilang buy bust money na noon ay nakalapag sa misa. Na, akin ding narekober kay @BOYET and isang pirasong kulay itim na coin purse na naglalaman pa ng isang pirasong plastic sachet ng pinaghihinalaang shabu kasama ng isang kulay puting lighter. At may narekober din ako mula sa babae na isang kulay itim na plastic case na naglalaman ng isang pirasong plastic sachet na pinaghihinalaang shabu, isang aluminum foil strip na ginamit sa paghithit ng pinaghihinalaang shabu, isang improvised water pipe, isang rolled aluminum foil, isang nakabukas na plastic sachet na pinaglagyan ng pinaghihinalaang shabu at isang kulay orange na lighter.*

x x x x

In his direct examination, PO3 Rael was also able to identify the same, thus:

FISCAL

By the way, how many plastic sachet were you able to purchase to (sic) alias Boyet?

WITNESS

Only one, sir.

FISCAL

How many plastic sachet of shabu all in all were you able to confiscate?

<sup>38</sup> Entitled: “AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE “COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.”” Approved: 15 July 2014.

<sup>39</sup> *Rollo*, pp. 47-49, 85.

WITNESS

I confiscate (sic) one heat sealed plastic sachet from alias Boyet, sir.

FISCAL

All in all?

WITNESS

Sa babae merong isa at meron din pong open.

FISCAL

So all in all you are saying that there were four plastic sachet?

WITNESS Yes, sir.

FISCAL

One was you were able to purchase (sic) from alias Boyet.

WITNESS

One was recovered from alias Boyet and the other one was recovered from female person.

FISCAL

So the other one was also recovered from the female person?

WITNESS Yes, sir.

FISCAL

I am showing to you four (4) plastic sachet. One with the marking GBN-BUYBUST 8-27-14 with signature. Another one with marking GBN-1 8-27-14 with signature and the other one with initial TMF-2 with the same date and signature. The other one is TMF-6 same date and signature. Will you please take a look at these and tell the court what relation have those specimens with the one you are referring to?

WITNESS

This is the one that I bought from alias Boyet with marking "GNB-BUYBUST and the date 8-27-14 with signature. **This is the one I recovered from alias Boyet "GBN-1 8-27-14" with signature.** This one I recovered from a female person with marking "TMF-2 8-27-14" also with signature. And this one open plastic sachet with marking "TMF-6 8-27-14 with signature" which I recovered from the female person.

xxx xxx xxx

FISCAL

Now, you were also mentioning that alias Boyet took the plastic sachet that he gave you, from a black coin purse?

WITNESS

Yes, sir.

FISCAL

I am showing to you a black coin purse with marking "GBN-2 8-

27-14" with signature, what is the relation of this black coin purse with the one that you were mentioning a while ago?

WITNESS

**Ito po yung narecover ko kay alias Boyet at doon ko rin nakuha iyong transparent plastic sachet.<sup>40</sup>**

Based on the foregoing, it is clear that the prohibited drug subject of Criminal Case No. 2014-4425 D-MK was confiscated by PO3 Rael from petitioner and that the same was recovered from the black purse also taken from the latter.

Finally, it must be underscored that petitioner's defenses of denial and frame-up cannot prevail over the positive testimonies of the prosecution witnesses. In order to prosper, the defenses of denial and frame-up must be proven with strong and convincing evidence,<sup>41</sup> which petitioner failed to present in this case. Hence, credence should be given to the direct account of the law enforcement officers, who are presumed to have performed their duties in a regular manner.<sup>42</sup>

In conclusion, We affirm the conviction of petitioner for the offense of illegal possession of dangerous drugs. Likewise, the penalty of imprisonment ranging from 12 years and one day, as minimum, to 14 years, as maximum, and a fine of ₱300,000.00 imposed by the RTC are sustained, being within the range provided by law.<sup>43</sup>

**WHEREFORE**, the petition is hereby **DISMISSED**. The Decision dated 24 May 2019 and Resolution dated 23 September 2020 of the Court of Appeals in CA-G.R. CR No. 41489, finding petitioner guilty beyond reasonable doubt of the offense of illegal possession of dangerous drugs, is **AFFIRMED**.

<sup>40</sup> Id. at 45-47; TSN dated 12 May 2016, pp. 20-22, 26-27.

<sup>41</sup> See *People v. Arago*, G.R. No. 233833, 20 February 2019.

<sup>42</sup> See *People v. Cabiles*, 810 Phil. 969, 976 (2017).

<sup>43</sup> Section 11 of Republic Act No. 9165 provides that the following penalty shall be imposed "upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof: x x x Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (₱300,000.00) to Four hundred thousand pesos (₱400,000.00), if the quantities of dangerous drugs are less than five (5) grams x x x".



**SO ORDERED.”** *Marquez, J., on official leave.*

**By authority of the Court:**

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

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**129**

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Court of Appeals (x)  
Manila  
(CA-G.R. CR No. 41489)

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
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The Hon. Presiding Judge  
Regional Trial Court, Branch 273  
1800 Marikina City  
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