



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **January 30, 2023** which reads as follows:*

**“UDK-17706 (Armando L. Pepito, Petitioner v. People of the Philippines, Respondent).** — This Court resolves a Petition for Review on *Certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> of the Court of Appeals (CA), which affirmed the Judgment<sup>3</sup> of the Regional Trial Court (RTC). The Judgment found Armando L. Pepito (*Pepito*) guilty beyond reasonable doubt of the violation of Section 11 of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The instant Petition stemmed from an Information<sup>4</sup> filed against Armando L. Pepito (*Pepito*) charging him with violating Section 11 of R.A. No. 9165, the accusatory portion of which reads:

That on the 4<sup>th</sup> day of July 2009, at around 9:45 A.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there have in his possession and control one (1) medium transparent plastic sachet of white crystalline substance weighing 5.20 grams, and two heat-sealed transparent plastic sachets, each containing white crystalline substance and weighing 0.02 gram, all locally known as shabu, and containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>5</sup> (Emphasis in the original)

When arraigned on September 24, 2009, Pepito pleaded not guilty. After the termination of the pre-trial, trial on the merits ensued.<sup>6</sup>

<sup>1</sup> *Rollo*, pp. 3-13.

<sup>2</sup> The March 12, 2014 Decision in CA-G.R. CEB-CR HC-No. 01561 was penned by Associate Justice Ramon Paul L. Hernando (now a Member of this Court), and concurred in by Associate Justices Carmelita Salandanan-Manahan and Ma. Luisa C. Quijano-Padilla, available at <<https://services.ca.judiciary.gov.ph/faces/pages/ResultInformation.xhtml>> (last accessed January 12, 2023)

<sup>3</sup> *Id.* The October 30, 2012 Judgment in Criminal Case No. CBU-86645 was penned by Presiding Judge Enriqueta Loquillano-Belardino.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

On October 30, 2012, the RTC rendered a Judgment<sup>7</sup> finding Pepito guilty beyond reasonable doubt of the crime charged, the dispositive portion of which reads:

WHEREFORE, finding guilt beyond reasonable doubt of accused Armando L. Pepito, for Violation of Section 11 Art. II of RA 9165, he is hereby sentenced to suffer the penalty of twenty (20) years and one (1) day to life imprisonment and a fine of Php400,000.00.

The three (3) packs of shabu are forfeited in favor of the government.

SO ORDERED.<sup>8</sup>

Aggrieved, Pepito filed a Notice of Appeal to the CA.<sup>9</sup>

On March 12, 2014, the CA rendered a Decision<sup>10</sup> affirming the Judgment of the RTC. The CA held that the prosecution had sufficiently established the chain of custody with respect to the illicit drugs and that the integrity and the evidentiary weight of the confiscated plastic packs of shabu had been adequately preserved. The dispositive portion of the Decision reads:

WHEREFORE, in the light of the foregoing, the October 30, 2012 Judgment of the Regional Trial Court, Branch 57 of Cebu City in Criminal Case No. CBU-86645 is hereby **AFFIRMED**. No costs.

SO ORDERED.<sup>11</sup> (Emphasis in the original)

In a Resolution dated June 10, 2016, the CA stated that as per its Judicial Records Division Verification Report dated April 8, 2016, no petition for review was filed before this Court by either parties despite due notice. Accordingly, its Decision dated March 12, 2014 had attained finality. Thus, an Entry of Judgment was issued and recorded in its Book of Judgment.<sup>12</sup>

Hence, the instant Petition for Review on *Certiorari*,<sup>13</sup> which was posted on September 21, 2022.

Pepito, through counsel, argues in this Petition that he was deprived of due process as the RTC convicted him without giving him a copy of the

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Rollo*, p. 16.

<sup>12</sup> *Id.* See Entry of Judgment.

<sup>13</sup> *Id.* at 3-13.

Judgment despite his personal request thereof. Similarly, he alleges that the CA also failed to provide him with a copy of the Decision which affirmed the conviction of the RTC.<sup>14</sup> It was to his surprise that he received a letter from the CA informing him that his case had lapsed into finality.<sup>15</sup> Arguing that the RTC and the CA based their findings on an erroneous understanding of the facts and a misappreciation of the applicable laws, rules, and regulations, he urges this Court to take a second look at his case by allowing him to submit the necessary pleadings and attachments to prove his innocence.<sup>16</sup>

### This Court's Ruling

After a conscientious review, this Court resolves to modify the assailed Decision of the CA insofar as the penalty is concerned.

Observably, it cannot be ignored that the Petition is fraught with procedural infirmities. On this point alone, the Petition merits outright dismissal. Concededly, while the rules of procedure are not strictly enforced at the cost of substantial justice, by no means should the Rules of Court be ignored at will "to the prejudice of the orderly presentation and assessment of the issues and their just resolution."<sup>17</sup>

Rule 45, Section 4 of the Revised Rules on Civil Procedure establishes the contents of petitions for review on *certiorari* filed in this Court:

Section 4. *Contents of petition.* — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42[.]

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<sup>14</sup> *Id.* at 5.

<sup>15</sup> *Id.* at 5–6.

<sup>16</sup> *Id.* at 9–12.

<sup>17</sup> *Sea Power Shipping Enterprises Inc. v. Court of Appeals*, 412 Phil. 603, 755 (2001) [Per J. Buena, Second Division]. (Citation omitted)

Non-compliance with any of the foregoing requisites is a ground for dismissal of the petition pursuant to Section 5 of the same Rule, to wit:

Section 5. *Dismissal or denial of petition.* — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration[.]

The following have been noted as conspicuously absent in the instant Petition: (1) payment of docket and other lawful fees; (2) statement of material dates; (3) verification and certification against forum shopping; (4) certified true copies of the assailed Decision of the Court of Appeals and Judgment of the Regional Trial Court; (5) proof of service of the petition to the Court of Appeals and the Office of the Solicitor General; and (6) incomplete details of Pepito and his counsel. There were also no duplicate copies of the Petition as required by the Rules.

Be as it may, this Court gives due course to the instant petition on the grounds of substantial justice. Especially in cases which involve the deprivation of life and liberty, as in this case, procedural rules must yield to the interests of the general welfare and substantial justice. As stressed in *Tan Po Chu v. Court of Appeals*:<sup>18</sup>

When the interest of strictly enforcing rules of procedure comes in conflict with the interests of rendering substantial justice and protecting the general welfare, the scales of justice tilt substantially in favor of the latter. The rules of procedure should not be applied in a very rigid technical sense so as to override substantial justice.<sup>19</sup> (Citation omitted)

Here, this Court does not dispute the finality of the assailed Decision, given that an entry of judgment was already made and notice thereof was already served on petitioner's counsel last June 29, 2016.<sup>20</sup> “[A] decision that has acquired finality becomes immutable and unalterable. As such, it may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions of fact or law[.]”<sup>21</sup> Regardless thereof, this Court, in *Sumbilla v. Matrix Finance Corporation*,<sup>22</sup> held that the rule on the immutability of final judgments is not a hard and fast rule. Appropriately, notwithstanding the finality of a judgment of conviction, this Court is still

<sup>18</sup> 783 Phil. 526 (2016) [Per J. Brion, Second Division].

<sup>19</sup> *Id.* at 535–536.

<sup>20</sup> *Rollo*, p. 15.

<sup>21</sup> *Rep. of the Phils. v. Catubag*, 830 Phil. 226, 234 (2018) [Per J. Reyes, Jr., Second Division].

<sup>22</sup> 762 Phil. 130 (2015) [Per J. Villarama, Jr., Third Division].

empowered to correct the penalties in the interest of justice and pursuant to the duty and inherent power of this Court, to wit:

Nonetheless, the immutability of final judgments is not a hard and fast rule. The Court has the power and prerogative to suspend its own rules and to exempt a case from their operation if and when justice requires it. After all, procedural rules were conceived to aid the attainment of justice. If a stringent application of the rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter[.]

. . . .

The judgment of conviction was already final in *Rigor v. The Superintendent, New Bilibid Prison* when the Court corrected the minimum and maximum periods of the indeterminate sentence imposed on the accused which exceeded the period of the impossible penalty. The correction was made in the interest of justice and only for the penalty imposed against petitioner to be in accordance with law and nothing else.

Both *People v. Gatward*, and *People v. Barro* cited the duty and inherent power of the Court to correct the erroneous penalties meted on the accused in a final and executory judgments, and make it conform to the penalty prescribed by law.

The interest of justice and the duty and inherent power of the Court were the reasons anchored upon in *Estrada v. People* in ruling that it is befitting to modify the penalty imposed on petitioner even though the notice of appeal was belatedly filed.

In *Almuete v. People*, the penalty imposed upon the petitioner which is outside the range of the penalty prescribed by law was duly corrected even if it was already final on the ground of substantial justice[.]<sup>23</sup> (Emphasis in the original and citations omitted)

Given the foregoing, this Court modifies the Decision of the CA insofar as it affirms the penalty of the RTC, which meted out a penalty of imprisonment of 20 years and one day to life imprisonment and a fine of PHP 400,000.00.

It must be remembered that under Section 11 of Republic Act No. 9165, as amended, the penalty for illegal possession of dangerous drugs, if the quantity is 5 grams or more but less than 10 grams of methamphetamine hydrochloride or shabu, as in this case, is imprisonment of 20 years and one day to life imprisonment, and a fine ranging from PHP 400,000.00 to PHP 500,000.00.

Consistent with the ruling in *People v. Obias*<sup>24</sup> where the accused was also found guilty of illegal possession of more than five grams of shabu, this

<sup>23</sup> *Id.* at 137–139.

<sup>24</sup> 850 Phil. 420 (2019) [Per J. Del Castillo, First Division].

Court finds it proper to modify the penalty to 20 years and one day, as minimum, to 30 years, as maximum, and a fine of PHP 400,000.00. Such reasoning was further fleshed out by former Chief Justice Diosdado M. Peralta in his concurring opinion in the same case, to wit:

[I]t is clear that if the imposable penalty consists of a range of twenty (20) years and one (1) day to life imprisonment, like in this case, the Court should impose a minimum term not less than the minimum of the penalty, which is twenty (20) years and one (1) day, and a maximum term not higher than life imprisonment. Thus, imposing an indeterminate sentence of 20 years and 1 day, as minimum, to life imprisonment, as maximum, would appear to be compliant with the above-quoted provision.

**However, by imposing such an indeterminate sentence, the accused, after serving the minimum term of 20 years and 1 day, will not be entitled to be released on parole because he will still serve the maximum term of life imprisonment. Besides, if the penalty of life imprisonment is imposed, the Indeterminate Sentence Law is no longer applicable because Section 2 of Act No. 4103, as amended, expressly provides that it shall not apply to persons convicted of offenses punished with life imprisonment:**

....

Imposing a maximum term of life imprisonment upon the accused will not be consistent with the objectives of the Indeterminate Sentence Law which is “to uplift and redeem valuable human material, and prevent unnecessary and excessive deprivation of personal liberty and economic usefulness” of the accused since he/she may be exempted from serving the entire sentence, depending upon his/her behavior and his/her physical, mental, and moral record.

It will not be good for the person who may have already been reformed and rehabilitated while serving sentence in a correctional institution and deprived of the benefits of the Indeterminate Sentence Law. **That is why in *Argoncillo v. Court of Appeals*, where the penalty for violation of P.D. 704 is 20 years to life imprisonment, the Court imposed a penalty of 20 years to 25 years because any period in excess of 20 years is within the range of the penalty. This penalty has a legal basis because under the second sentence of Section 1 of Act No. 4103, as highlighted above, the minimum term (20 years) is not less than the minimum penalty provided for by law, and the maximum term (25 years) is not higher than the maximum penalty of life imprisonment, and the penalty imposed is within the range of the penalty provided for by law.**<sup>25</sup> (Emphasis supplied; citations omitted)

**FOR THESE REASONS, the Petition for Review on *Certiorari* is DENIED. The March 12, 2014 Decision of the Court of Appeals in CA-G.R. CEB-CR HC-No. 01561 is AFFIRMED WITH MODIFICATION.**

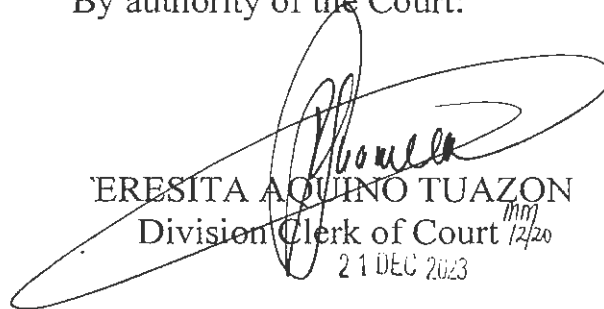
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<sup>25</sup> *Id.* at 441-442.

Petitioner Armando L. Pepito is found **GUILTY** beyond reasonable doubt of illegal possession of dangerous drugs under Section 11 of Republic Act No. 9165 and is hereby **SENTENCED** to an indeterminate penalty of imprisonment of **TWENTY (20) YEARS AND ONE (1) DAY**, as minimum, to **THIRTY (30) YEARS**, as maximum. He is also **ORDERED** to **PAY** a fine of PHP 400,000.00.

**SO ORDERED.”**

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court <sup>11/17</sup> 12/20  
21 DEC 2023

ARMANDO L. PEPITO (reg)  
Petitioner  
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c/o The Director General  
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THE DIRECTOR GENERAL (reg)  
Bureau of Corrections  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 57  
Cebu City 6000  
(Crim. Case No. CBU-86645)

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