



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **March 15, 2023** which reads as follows:*

**“G.R. No. 260493 (PEOPLE OF THE PHILIPPINES, Plaintiff-appellee v. ROSALIA DELA CRUZ y BARONA, GIL BLANCA y GAYATGAY, and SHANE VALERIE CRUZ, Accused-appellants).** — This appeal assails the Decision<sup>1</sup> dated February 24, 2021 of the Court of Appeals in CA-G.R. CR-H.C. No. 13573, affirming the conviction of appellants Rosalia Dela Cruz, Gil Blanca, and Shane Cruz for violations of Article II, Sections 5 and 11 of Republic Act No. 9165.<sup>2</sup>

Under two separate Informations dated April 12, 2019<sup>3</sup> and April 22, 2019,<sup>4</sup> respectively, appellants were charged with violations of Article II, Sections 5 and 11 of Republic Act No. 9165, *viz.*:

Criminal Case No. R-QZN-19-06939-CR  
(violation of Section 5, Article II, RA 9165)

The undersigned accuses **ROSALIA DELA CRUZ y BARONA** alias **“MOTHER[,]” “COT[,]” “ATE TABA[,]” GIL BLANCA [y] GAYATGAY[,] and SHANE VALERIE CRUZ** of violation of Section 5, Article II, Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002), committed as follows:

That on or about the **10<sup>th</sup> day of April 2019**, in Quezon City, Philippines, the above-named accused, without lawful authority, conspiring together, confederating with[,] and mutually helping one another, did then and there, willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as a broker in the said transaction, one (1) transparent plastic sachet with marking **MGC-RDC-BB 4-10-19** containing **zero point thirteen (0.13) gram** of white crystalline substance, which was found to be positive to the test for **Methamphetamine Hydrochloride**, a dangerous drug.

<sup>1</sup> Penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justice Pedro B. Corales, and now Supreme Court Associate Justice Japar B. Dimaampao, *rollo*, pp. 8–30.

<sup>2</sup> Comprehensive Dangerous Drugs Acts of 2002.

<sup>3</sup> Records, pp. 3–4.

<sup>4</sup> *Id.* at 11–13.

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

Criminal Case No. R-QZN-19-06942-CR  
(violation of Section [11], Article II, RA 9165)

The undersigned accuses **ROSALIA DELA CRUZ y BARONA alias "MOTHER", "COT", "ATE TABA", GIL BLANCA [y] GAYATGAY[,] and SHANE VALERIE CRUZ** of violation of Section 11, Article II, Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002), committed as follows:

That on or about the **10<sup>th</sup> day of April 2019**, in Quezon City, Philippines, the above-named accused, not being authorized by law to possess or use any dangerous drug, did then and there, willfully, unlawfully, and knowingly have in their possession and control twenty-two (22) transparent plastic sachet[s] with marking, to wit:

zero point zero two (0.02) gram with marking **MGMC-RE-2 4-10-19**  
 zero point zero three (0.03) gram with marking **MGMC-RE-3 4-10-19**  
 zero point zero three (0.03) gram with marking **MGMC-RE-4 4-10-19**  
 zero point zero two (0.02) gram with marking **MGMC-RE-5 4-10-19**  
 zero point zero three (0.03) gram with marking **MGMC-RE-6 4-10-19**  
 zero point zero three (0.03) gram with marking **MGMC-RE-7 4-10-19**  
 zero point zero three (0.03) gram with marking **MGMC-RE-8 4-10-19**  
 zero point zero three (0.03) gram with marking **MGMC-RE-9 4-10-19**  
 zero point zero ten (0.010) gram with marking **MGMC-RE-10 4-10-19**  
 zero point zero four (0.04) gram with marking **MGMC-RE-11 4-10-19**  
 zero point zero four (0.04) gram with marking **MGMC-RE-12 4-10-19**  
 zero point zero five (0.05) gram with marking **MGMC-RE-13 4-10-19**  
 zero point zero three (0.03) gram with marking **MGMC-RE-14 4-10-19**  
 zero point zero two (0.02) gram with marking **MGMC-RE-15 4-10-19**  
 zero point zero three (0.03) gram with marking **MGMC-RE-16 4-10-19**  
 zero point zero three (0.03) gram with marking **MGMC-RE-17 4-10-19**  
 zero point zero four (0.04) gram with marking **MGMC-RE-18 4-10-19**  
 zero point zero four (0.04) gram with marking **MGMC-RE-19 4-10-19**  
 zero point zero six (0.06) gram with marking **MGMC-RE-20 4-10-19**  
 zero point zero four (0.04) gram with marking **MGMC-RE-21 4-10-19**  
 zero point zero four (0.04) gram with marking **MGMC-RE-24-10-19**  
 [sic]  
 zero point zero four (0.04) gram with marking **MGMC-RE-24 4-10-19**  
 [sic]

all in the total net weight of **five point forty eight (5.48) grams** of white crystalline substance, which was found to be positive to the test for **Methamphetamine Hydrochloride**.

**CONTRARY TO LAW.**<sup>6</sup> (Emphasis in the original)

The cases were raffled to the Regional Trial Court, Branch 79, Quezon City.<sup>7</sup>

<sup>5</sup> *Id.* at 3–4.

<sup>6</sup> *Id.* at 11–12.

<sup>7</sup> *Rollo*, p. 32.

On arraignment, appellants pleaded “not guilty” to all the charges.<sup>8</sup>

During the trial, Police Corporal Mark Gilbert Cabañero (PCpl. Cabañero), and Patrolman Hilbert Mendez (Patrolman Mendez) of the Quezon City Police District (QCPD), Police Station 8, Project 4, Quezon City testified for the prosecution.<sup>9</sup> On the other hand, appellants testified for the defense.<sup>10</sup>

### *The Prosecution’s Version*

On April 9, 2019, around 3:00 p.m., a confidential informant went to the QCPD, Police Station 8, Station Drug Enforcement Unit (SDEU) informing Police Inspector Jesus Mason, Jr. (PInsp. Mason) that a certain “Mother” later identified as appellant Rosalia Dela Cruz (Rosalia) was engaged in a drug trade in an apartel in Fairview, Quezon City.<sup>11</sup> PInsp. Mason relayed the information to Police Superintendent Jeffrey Bilaro, who in turn, called a meeting for the conduct of a buy-bust operation.<sup>12</sup> PCpl. Cabañero got designated as poseur buyer, while Patrolman Mendez and 10 other police officers as immediate back up.<sup>13</sup> Patrolman Mendez prepared the buy-bust money, *i.e.* one genuine PHP 500.00 bill with markings “HM-2 4-10-19.”<sup>14</sup> They agreed on a pre-arranged signal: PCpl. Cabañero would make a missed call to Police Staff Sergeant Jonifer Estela (PSSgt. Estela) once the sale had been consummated.<sup>15</sup>

On the same day, around 5:00 p.m., the confidential informant reported to PCpl. Cabañero that he and Rosalia would have a drug transaction at 11:30 p.m. at North Haven Apartel (North Haven) in Fairview, Quezon City.<sup>16</sup> The confidential informant gave Rosalia’s contact number to PCpl. Cabañero who called Rosalia and relayed his interest to buy PHP 500.00 worth of *shabu*. The two agreed to meet at North Haven by midnight of April 10, 2019.<sup>17</sup>

At 10:30 p.m. of April 9, 2019, the buy-bust team, together with the confidential informant, proceeded to the target place. The informant called Rosalia who told the former that she was in Room A5.<sup>18</sup> A little later, Rosalia opened the door and welcomed PCpl. Cabañero and the informant into the room. PCpl. Cabañero noticed that Rosalia was accompanied by two individuals, later identified as appellants Gil Blanca (Gil) and Shane Cruz

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<sup>8</sup> Records, p. 89.

<sup>9</sup> *Rollo*, p. 10.

<sup>10</sup> *Id.* at 13.

<sup>11</sup> TSN, July 29, 2019, p. 3–4.

<sup>12</sup> *Id.* at 4.

<sup>13</sup> *Rollo*, p. 11.

<sup>14</sup> TSN, August 7, 2019, p. 11.

<sup>15</sup> TSN, July 29, 2019, p. 7.

<sup>16</sup> *Id.* at 6.

<sup>17</sup> *Rollo*, p. 11.

<sup>18</sup> TSN, July 29, 2019, p. 7.

(Shane) who were repacking plastic sachets with white crystalline substance.<sup>19</sup> Rosalia asked “*magkano kukunin?*” to which PCpl. Cabañero replied “*PHP 500.00 Ate.*”<sup>20</sup> He handed the PHP 500.00 to Rosalia. In turn, Rosalia picked one heat-sealed sachet containing a white crystalline substance from the bed where Gil and Shane were repacking, and gave it to PCpl. Cabañero.<sup>21</sup> After closely examining the sachet and believing that it contained *shabu*, PCpl. Cabañero made a missed call to PSSgt. Estela signaling that the sale had been consummated.<sup>22</sup>

The other members of the team immediately closed in. Patrolman Mendez arrested Rosalia, while Patrolman Rex Manuel arrested Gil and Shane. The arresting officers introduced themselves as police officers and informed appellants of their constitutional rights. When asked their complete name, they replied “Rosalia Dela Cruz,” “Gil Blanca,” and “Shane Cruz,” respectively.<sup>23</sup>

The team was able to seize 23 heat-sealed plastic sachets<sup>24</sup> containing white crystalline substance from the bed where Gil and Shane were repacking, and one plastic sachet subject of the sale from Rosalia, or a total of 24 items from appellants. At the place of arrest, PCpl. Cabañero immediately marked the plastic sachet subject of sale with “MGC-RDC-BB 4-10-19,”<sup>25</sup> while the other 23 seized plastic sachets as “MGC-RE-1 4-10-19, MGC-RE-2 4-10-19, etc.,” respectively.<sup>26</sup> The team were also able to recover the buy-bust money, one PHP 500.00 bill and four PHP 100.00 bills from Rosalia, one digital weighing scale, one pair of scissors, two lighters, and one cellphone.<sup>27</sup> The marking and inventory were done at the place of arrest in the presence of media representative Rodel Vega, Barangay Kagawad Edgardo Domingo, Jr., and appellants themselves.<sup>28</sup> Pictures of the confiscated items were also taken.<sup>29</sup>

After the marking and inventory, the team brought appellants to the police station. *En route* to the police station, PCpl. Cabañero held sole custody of the marked items which he placed inside a plastic bag.<sup>30</sup> Subsequently, he turned over the 24 plastic sachets to duty investigator Patrolman Emerson Kilasen (Patrolman Kilasen).<sup>31</sup> Patrolman Kilasen prepared the Request for Laboratory Examination and Drug Test. Patrolman Kilasen, who took custody

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<sup>19</sup> *Id.* at 9.

<sup>20</sup> *Id.* at 8.

<sup>21</sup> *Id.* at 8–9.

<sup>22</sup> *Rollo*, p. 12.

<sup>23</sup> Records, pp. 30–31.

<sup>24</sup> TSN, July 30, 2019, p. 3.

<sup>25</sup> TSN, July 29, 2019, p. 11.

<sup>26</sup> TSN, July 30, 2019, p.3.

<sup>27</sup> TSN, July 29, 2019, p. 11.

<sup>28</sup> *Rollo*, p. 12.

<sup>29</sup> *Id.*

<sup>30</sup> TSN, July 30, 2019, p. 18.

<sup>31</sup> *Id.* at 12.

of the seized items, went to the QCPD Crime Laboratory Office, Kamuning, Quezon City for the laboratory examination thereof.

At 5:15 a.m. of April 10, 2019, Forensic Chemist Police Lieutenant Rhea Fe Dela Cruz-Alviar (Forensic Chemist Dela Cruz-Alviar) received the subject specimens from Patrolman Kilasen. Per Chemistry Report No. D-982-19-A,<sup>32</sup> the specimens tested positive for methamphetamine hydrochloride, a dangerous drug, *viz.*:

A1 (MGC-RDC-BB 4-10-19) = 0.13gram  
A2 (MGC-RE-2 4-10-19) = 0.02gram  
A3 (MGC-RE-3 4-10-19) = 0.03gram  
A4 (MGC-RE-4 4-10-19) = 0.03gram  
A5 (MGC-RE-5 4-10-19) = 0.02gram  
A6 (MGC-RE-6 4-10-19) = 0.03gram  
A7 (MGC-RE-7 4-10-19) = 0.03gram  
A8 (MGC-RE-8 4-10-19) = 0.03gram  
A9 (MGC-RE-9 4-10-19) = 0.03gram  
A10 (MGC-RE-10 4-10-19) = 0.10gram  
A11 (MGC-RE-11 4-10-19) = 0.04gram  
A12 (MGC-RE-12 4-10-19) = 0.04gram  
A13 (MGC-RE-13 4-10-19) = 0.05gram  
A14 (MGC-RE-14 4-10-19) = 0.03gram  
A15 (MGC-RE-15 4-10-19) = 0.02gram  
A16 (MGC-RE-16 4-10-19) = 0.03gram  
A17 (MGC-RE-17 4-10-19) = 0.03gram  
A18 (MGC-RE-18 4-10-19) = 0.04gram  
A19 (MGC-RE-19 4-10-19) = 0.04gram  
A20 (MGC-RE-20 4-10-19) = 0.06gram  
A21 (MGC-RE-21 4-10-19) = 0.04gram  
A22 (MGC-RE-22 4-10-19) = 0.04gram  
A23 (MGC-RE-23 4-10-19) = 0.04gram  
A26 (MGC-RE-1 4-10-19) = 4.66gram<sup>33</sup>

Thus, the item subject of the sale (“MGC-RDC-BB 4-10-19”) had a weight of 0.13 gram, while the other 23 items (“MGC-RE-1 4-10-19, etc.”) had a total net weight of 5.48 grams.

Meanwhile, per Chemistry Report No. QCDT-2047-19 to 2049-19,<sup>34</sup> Rosalia tested negative, while Gil and Shane tested positive for the presence methamphetamine hydrochloride.<sup>35</sup>

After the examination of the marked confiscated drugs, Forensic Chemist Dela Cruz-Alviar placed the specimens inside a transparent bag, sealed the same with a masking tape, marked them as “D-982-19 10 April 2019 RFDC,” respectively, and signed the same. She turned over the

<sup>32</sup> Records, p. 40.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 43.

<sup>35</sup> *Id.*

specimens to evidence custodian Police Officer 2 Junia Tuccad (PO2 Tuccad) who kept the sealed and marked specimens in the evidence room of the QCPD Crime Laboratory.<sup>36</sup>

The prosecution offered the following evidence: 1) Referral Letter dated April 11, 2019; 2) Sworn Statement of Poseur Buyer; 3) Joint Affidavit of Apprehension; 4) Affidavit of Investigator; 5) Pre-Operational Report; 6) Coordination Form; 7) Spot Report; 8) Request for Laboratory Examination; 9) Request for Drug Test; 10) Chemistry Report No. D-982-19; 11) Mug Shots and Arrest and Booking Sheets; 12) Receipt/Inventory of Seized Items; 13) Chain of Custody Report; 14) photographs during the inventory of the confiscated items; 15) scanned copy of the marked money and seized bills; and 16) the 24 seized plastic sachets containing *shabu*.

### *The Defense's Version*

**Rosalia** testified that on April 9, 2019, around 8:00 p.m., she went to North Haven to meet with her boyfriend Joel Sabanday (Joel) to celebrate his birthday.<sup>37</sup> While waiting for Joel, several men arrived in North Haven together with a male who was handcuffed. Four men approached her and she heard them saying “*ito ba, ito ba?*”<sup>38</sup> Thereafter, one of the men placed his arms on her shoulder and brought her inside a room.<sup>39</sup> Afterwards, she went to the comfort room where the men asked her to bring the “item” and “money.” She replied that she did not bring anything. The men also frisked her but they were not able to get anything. She boarded a police vehicle, and they went to her house. The men, however, did not find anything so they went back to North Haven where she saw her co-appellants Gil and Shane.<sup>40</sup> They waited until 2:30 a.m. of April 10, 2019, then proceeded to the police station.<sup>41</sup>

**Gil** and **Shane** likewise denied the accusations against them. They testified that they had been lovers for two months. On April 9, 2019, they decided to meet at North Haven. When Gil arrived around 9 p.m., a group of men approached him and brought him to a room in North Haven. There, he saw his girlfriend Shane, and another woman, Rosalia, whom he had never met before. He was dragged and mauled inside the comfort room. Afterwards, a media representative arrived. The media representative asked him if the recovered items were taken from him, which he denied. Thereafter, the three of them were brought to the police station.<sup>42</sup>

As for Shane, she arrived at North Haven around 7:30 p.m. of April 9, 2019. After a few minutes, she saw Gil who was being held by several men.

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<sup>36</sup> *Rollo*, p. 13.

<sup>37</sup> TSN, August 29, 2019, p. 4.

<sup>38</sup> *Id.* at 5.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 8-9.

<sup>41</sup> *Id.* at 10.

<sup>42</sup> *Rollo*, p. 15.

She approached the men but the latter asked her to go inside a room. She went with them because she saw the men had guns bulging on their waist. They asked for her personal information and searched her bag but found nothing. She likewise heard the men calling a media representative and barangay official. Some items were likewise laid on the bed and photos were taken as well. Afterwards, she, Gil, and a woman named Rosalia headed to the police station.<sup>43</sup>

### Ruling of the Regional Trial Court

As borne in its Joint Judgment<sup>44</sup> dated October 1, 2019, the trial court rendered a verdict of conviction in both cases, thus:

**WHEREFORE**, judgment is hereby rendered as follows:

1. In Criminal Case No. R-QZN-19-06939-CR, accused **ROSALIA DELA CRUZ y BARONA, GIL BLANCA y GAYATGAY, and SHANE VALERIE CRUZ** are hereby found **GUILTY BEYOND REASONABLE DOUBT** of violation of Section 5, Article II of Republic Act No. 9165, and they are hereby each sentenced to suffer life imprisonment, and to pay a fine of Five hundred thousand pesos (P500,000.00);
2. In Criminal Case No. R-QZN-19-06942-CR, accused **ROSALIA DELA CRUZ y BARONA, GIL BLANCA y GAYATGAY, and SHANE VALERIE CRUZ** are hereby found **GUILTY BEYOND REASONABLE DOUBT** of violation of Section 11, Article II of Republic Act No. 9165, and they are hereby each sentenced to suffer imprisonment of twelve (12) years and one (1) day as minimum, to fourteen (14) years and eight (8) months, as maximum, and to pay a fine of Three hundred thousand pesos (P300,000.00).<sup>45</sup> (Emphasis in the original)

....

The trial court found that the elements of illegal sale and illegal possession of drugs were all present here;<sup>46</sup> the three appellants acted in concert in both cases of illegal sale and illegal possession of prohibited drugs;<sup>47</sup> appellants' bare denial and theory of frame-up failed to defeat the presumption of regularity in the performance of official functions of the police officers;<sup>48</sup> and the prosecution had established an unbroken chain of custody.<sup>49</sup>

### Ruling of the Court of Appeals

<sup>43</sup> TSN, September 9, 2019, pp. 5-12.

<sup>44</sup> *Rollo*, pp. 32-44.

<sup>45</sup> *Id.* at 43.

<sup>46</sup> *Id.* at 39.

<sup>47</sup> *Id.* at 40.

<sup>48</sup> *Id.* at 42-43.

<sup>49</sup> *Id.* at 42.

By its assailed Decision<sup>50</sup> dated February 24, 2021, the Court of Appeals affirmed. It ruled that the prosecution sufficiently established that there was a consummated sale of dangerous drugs in view of the exchange of illegal drug and buy-bust money between Rosalia and PCpl. Cabañero, whereas Gil and Shane were repacking plastic sachets with *shabu* in the bed where Rosalia got the item for sale.<sup>51</sup>

Also, another 23 plastic sachets containing *shabu* were found in appellants' possession. This was sufficient to convict appellants of illegal possession of dangerous drugs.<sup>52</sup>

The Court of Appeals noted that the Information in Criminal Case No. R-QZN-19-06942 failed to include the plastic sachet marked as "MGC-RE-1 4-10-19," weighing 4.66 grams. This inadvertence explains the discrepancy in the Information and the actual number and total weight of the drugs confiscated from the possession of appellants. The discrepancy, however, did not affect the integrity or the evidentiary value of the seized drugs since the 24 plastic sachets recovered from appellants were the same items examined by the forensic chemist, until presented in court as evidence.<sup>53</sup>

### The Present Appeal

Appellants now plead anew for a verdict of acquittal.

In compliance with Resolution dated August 31, 2022, both appellants and the People manifested that in lieu of supplemental briefs, they are adopting their respective briefs filed before the Court of Appeals.<sup>54</sup>

### Ruling

The appeal must fail.

In cases of illegal sale and illegal possession of dangerous drugs, the dangerous drugs seized from the accused constitute the *corpus delicti* of the offense. The integrity and identity of the seized drugs must be shown to have been duly preserved from the moment they were confiscated until presented in court.<sup>55</sup>

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<sup>50</sup> *Id.* at 8–30.

<sup>51</sup> *Id.* at 22.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 26.

<sup>54</sup> Appellee's Manifestation, *id.* at 48–50; Appellant's Manifestation, *id.* at 53–55.

<sup>55</sup> See *Fajardo v. People*, 691 Phil. 752, 758–759 (2012) [Per J. Perez, Second Division] citing *People v. Gutierrez*, 614 Phil. 285, 293 (2009) [Per J. Carpio Morales, Second Division].



The Informations here alleged that the crimes charged were committed on April 10, 2019. The governing law, therefore, is Republic Act No. 9165,<sup>56</sup> as amended by Republic Act No. 10640 which took effect on August 7, 2014. Section 1 of Republic Act No. 10640, amending Section 21 of Republic Act No. 9165 outlines the mandatory procedural safeguards in the preservation of the *corpus delicti*, viz.:

SECTION 1. Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," is hereby amended to read as follows:

SEC. 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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, that noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

....

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: *Provided*, [t]hat when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be examined by the forensic laboratory: *Provided, however*, [t]hat a

<sup>56</sup> 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." *Amendment to R.A. No. 9165 (Anti-Drug Campaign of the Government)*, approved July 15, 2014.

final certification shall be issued immediately upon completion of the said examination and certification.

Here, all the elements necessary to convict appellants of violations of Section 5 (illegal sale) and Section 11 (illegal possession of prohibited drugs) were duly established by the prosecution.

***a. Illegal sale of drugs***

To secure a conviction for illegal sale of dangerous drugs, the prosecution must establish 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>57</sup>

In the crime of illegal sale of dangerous drugs, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money consummate the illegal transaction. What matters is the proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited drug, the *corpus delicti*, as evidence.<sup>58</sup>

Here, poseur buyer PCpl. Cabañero gave a clear and accurate account of the transaction between him and Rosalia, together with Gil and Shane who were likewise present at the time the sale took place on April 9, 2019, *viz.*:

Q: When you knocked at the door, Mr. Witness, what happened?

A: Alias "Mother" opened the door.

x x x x

Q: So, when she opened the door, what did you do?

A: When I entered the said room, she immediately asked me.

Q: What did she ask you?

A: She asked "magkano kukunin?"

Q: And what was your answer?

A: And I replied "[Php]500.00 [A]te"

x x x x

Q: After you answered Five Hundred (P[HP] 500.00), what did you do?

A: I gave to her Five Hundred (P[HP] 500.00).

Q: To whom did you give the buy-bust money?

A: To alias "Mother".

Q: After you gave her the Five Hundred (P[HP]500.00), in exchange what did she give you?

A: She picked one (1) small heat-sealed sachet at the bed, [S]ir.

<sup>57</sup> *People v. Custodio*, G.R. No. 251741 (Notice), November 11, 2021.

<sup>58</sup> *People v. Sin Ming Tat*, G.R. No. 246577, July 13, 2020 [Per. J. Reyes, Jr., First Division].

Q: What was the content of the plastic?

A: Small heat-sealed sachet and white crystalline substance.

x x x x

**Q: During the transaction, what did you notice?**

**A: There was a one (1) male and one (1) female repacking.**

**Q: What were they repacking?**

**A: White crystalline substance.**

x x x x

**Q: Who are they?**

**A: Shane Valerie Cruz and Gil Blanco, [S]ir.<sup>59</sup> (Emphasis supplied)**

PCpl. Cabañero positively identified Rosalia as the person who sold him one heat-sealed plastic sachet containing *shabu* in consideration of PHP 500.00.<sup>60</sup> There was an actual exchange of the marked money and the plastic sachet containing *shabu*.<sup>61</sup> Meanwhile, Gil and Shane were in the same room, *i.e.* Room A5 of North Haven, where the sale transaction took place. Both were repacking plastic sachets of *shabu* in the bed when Rosalia got a sachet therefrom and delivered it to PCpl. Cabañero in exchange for PHP 500.00. All three had easy access to the *shabu* because they engaged in one and the same trade called illegal business of drugs; they share a common criminal design to sell dangerous drugs.<sup>62</sup> Hence, as keenly noted by the trial court:

**It can be gleaned from the acts of all the accused that they acted in common concert with each other. All accused were present during the sale transaction at Room A-5 of North Haven Apartelle.** Accused Gil Blanca and Shane Valerie Cruz were repacking inside Room A-5. Accused Rosalia [D]ela Cruz received the marked buy-bust money from Police Corporal Mark Gilbert Cabañero and she took a plastic sachet of *shabu* from the bed where accused Gil Blanca and Shane Valerie Cruz were repacking *shabu* and he handed it to Police Corporal Mark Gilbert Cabañero. **Conspiracy may be inferred from the purpose and design, concerted action[,] and community of interests.** As held in *People of the Philippines vs. Datsgandawali and Nol Pagalad*, conspiracy may be inferred from the acts of the accused before, during, and after the commission of the crime which indubitably point to and are indicative of joint purpose, concert of action and community of interest.<sup>63</sup> (Emphasis supplied; citations omitted)

Indeed, when conspiracy is shown, the act of one is the act of all conspirators.<sup>64</sup>

<sup>59</sup> TSN, July 29, 2019, pp. 8–9.

<sup>60</sup> *Id.* at 9.

<sup>61</sup> See *People v. Siu Ming Tat*, G.R. No. 246577, July 13, 2020 [Per J. Reyes, Jr., First Division].

<sup>62</sup> See *People v. Saban*, G.R. No. 197542 (Notice), October 4, 2017.

<sup>63</sup> *Rollo*, p. 40.

<sup>64</sup> *People v. Batoon*, 650 Phil. 569, 579 (2010) [Per J. Velasco, Jr., First Division].

Appellants, nonetheless, assert that they were victims of instigation. Hence, they are entitled to an absolatory cause of acquittal.

We are not convinced.

Instigation is the means by which the accused is lured into the commission of the offense charged in order to prosecute him. On the other hand, entrapment is the employment of such ways and means for the purpose of trapping or capturing a lawbreaker. Thus, in instigation, officers of the law or their agents incite, induce, instigate or lure an accused into committing an offense which he or she would otherwise not commit and has no intention of committing. But in entrapment, the criminal intent or design to commit the offense charged originates in the mind of the accused, and law enforcement officials merely facilitate the apprehension of the criminal by employing ruses and schemes; thus, the accused cannot justify his or her conduct. In instigation, where law enforcers act as co-principals, the accused will have to be acquitted. But entrapment cannot bar prosecution and conviction. For instigation is a “trap for the unwary innocent,” while entrapment is a “trap for the unwary criminal.”<sup>65</sup>

Further, a police officer’s act of soliciting drugs from the accused during a buy-bust operation, or what is known as a “decoy solicitation,” is not prohibited by law and does not render invalid the buy-bust operation. The sale of contraband is a kind of offense habitually committed, and the solicitation simply furnishes evidence of the criminal’s course of conduct.<sup>66</sup>

Here, appellants were not arrested following an instigation for them to commit the crime. Instead, they were caught *in flagrante delicto* during an entrapment through buy-bust. In a buy-bust operation, the pusher sells the contraband to another posing as a buyer; once the transaction is consummated, the pusher is validly arrested because he or she is committing or has just committed a crime in the presence of the buyer. Here, Rosalia asked PCpl. Cabañero how much *shabu* he was buying, to which the latter replied “PHP 500.00, Ate.” In consideration of PHP 500.00, Rosalia picked one heat-sealed plastic sachet containing *shabu* from the bed where Gil and Shane were repacking sachets of *shabu* as well. Clearly, Rosalia was shown to have been ready to sell the *shabu* without much prodding from PCpl. Cabañero. There is no question that the idea to commit the crime originated from the mind of the accused.<sup>67</sup>

***b. The elements of illegal possession of dangerous drugs are all present too***

<sup>65</sup> *People v. Bayani*, 577 Phil. 607, 617 (2008) [Per J. Chico-Nazario, Third Division].

<sup>66</sup> *Id.*

<sup>67</sup> *People v. Bartolome*, 703 Phil. 148, 164 (2013) [Per J. Bersamin, First Division].

In a prosecution for illegal possession of dangerous drugs, it must be shown that (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused was freely and consciously aware of being in possession of the drug.<sup>68</sup>

Here, the prosecution was able to establish beyond reasonable doubt that:

**First.** Appellants were in actual possession of dangerous drugs. PCpl. Cabañero recovered a total of 24 plastic sachets containing white crystalline substance, including the item subject of the sale, from Rosalia, Gil, and Shane. Later, the substance in these plastic sachets tested positive for methamphetamine hydrochloride or *shabu*, a dangerous drug, per Chemistry Report No. D-982-19-A.

**Second.** Appellants' possession of the dangerous drugs was clearly illegal because they could not present any proof or justification that they had lawful authority to possess the same.

**Third.** Appellants were freely and consciously aware of being in possession of dangerous drugs – Rosalia was offering them for sale, while Gil and Shane were repacking them. At any rate, mere possession of a prohibited drug constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused in the absence of any satisfactory explanation.<sup>69</sup>

Hence, the prosecution adequately established, as well, the elements of Article II, Section 11 of Republic Act No. 9165 against Rosalia, Gil, and Shane.

The Court notes that the prosecutor failed to include the plastic sachet marked as “MGC-RE-1 4-10-19” weighing 4.66 grams in the Information for Criminal Case No. R-QZN-19-06942 (illegal possession). This inadvertence explains the discrepancy in the total net weight of the seized items as indicated in the Information for Criminal Case R-QZN-19-06942 (illegal possession) which is 5.48 grams, as opposed to the 0.82 gram which is the actual sum of the individual sachets with markings “MGC-RE-2 4-10-19, etc.” Thus, appellants may not be penalized for the possession of 5.48 grams or the total net weight of the drugs indicated in the Information for Criminal Case R-QZN-19-06942-CR, but only with respect to the 0.82 gram of *shabu*.

<sup>68</sup> *People v. Hilario*, 823 Phil. 580, 594 (2018) [Per J. Leonardo-De Castro, First Division].

<sup>69</sup> *People v. Quijano*, G.R. No. 247558, February 19, 2020 [Per J. Lazaro-Javier, First Division].

It should be emphasized that the plastic sachet with markings “MGC-RE-1 4-10-19” was consistently included in the Inventory, Chain of Custody Form, Chemistry Report No. D-982-19-A, and the same was presented in court as evidence along with the other 23 seized plastic sachets. As will be explained in the succeeding discussion, the subject 24 marked plastic sachets confiscated from appellants were the same items received by the forensic chemist for laboratory examination, and presented in court as evidence.

***The prosecution sufficiently established all the links in the chain of custody***

To ensure the integrity of the seized drug items, the prosecution must account for *each link* in its chain of custody: *first*, the seizure and marking of the illegal drugs recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drugs seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drugs to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drugs seized by the forensic chemist to the court.

Here, the prosecution sufficiently proved an unbroken chain of custody.

*One*, poseur buyer PCpl. Cabañero immediately marked the seized items at the place of arrest. The item subject of the sale was marked “MGC-RDC-BB 4-10-19,” while the other 23 plastic sachets seized were marked “MGC-RE-1 4-10-19, etc.,” respectively. There was no discrepancy in the markings of the seized items. The items were likewise immediately inventoried and photographed in the presence of media representative Rodel Vega, Barangay Kagawad Edgardo Domingo, and appellants themselves. Hence, the possibility of switching, planting, or contamination of evidence was altogether prevented.<sup>70</sup> Records show that PCpl. Cabañero did not yield possession of the subject sachets to another police officer after he acquired custody thereof, and on their way to the police station.

*Two*, PCpl. Cabañero turned over the seized items to the duty investigator, Patrolman Kilasen. Subsequently, Patrolman Kilasen prepared the Request for Laboratory Examination of the seized items, and Drug Test of appellants. Patrolman Kilasen was able to account for the condition of these drugs at the time it was turned over to him. The integrity and identity of the *corpus delicti*, therefore, were duly preserved during this stage.

*Three*, after preparing the proper documentation, Patrolman Kilasen personally brought the items to the crime laboratory together with the

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<sup>70</sup> *People v. Madrigal*, G.R. No. 252674 (Notice), (January 5, 2022).

Requests for Laboratory Examination and Drug Test. The specimens were duly received by Forensic Chemist Dela Cruz-Alviar. Per Chemistry Report No. D-982-19-A, Forensic Chemist Dela Cruz-Alviar found the 24 specimens positive for methamphetamine hydrochloride or *shabu*, a dangerous drug. Thereafter, Forensic Chemist Dela Cruz-Alviar placed the specimens inside a transparent bag, sealed with a masking tape, and with markings “D-982-19 10 April 2019 RFDC.” She turned over the specimens to PO2 Tuccad who kept the specimens in the evidence room of the QCPD Crime Laboratory.<sup>71</sup>

As it was, appellants failed to overcome with competent evidence the positive findings for *shabu* of the contents of the seized plastic sachets as shown in Chemistry Report No. D-982-19-A.<sup>72</sup> The Court notes, too, that Gil and Shane tested positive for the presence of methamphetamine hydrochloride in their drug test.

In *People v. Pajarin*,<sup>73</sup> the Court clarified that, as a rule, the forensic chemist who examines a seized substance should ordinarily testify that he or she received the seized article as marked, properly sealed, and intact; that he or she resealed it after examination of the content; and that he or she placed his or her own marking on the same to ensure that it could not be tampered pending trial. In case the parties stipulate to dispense with the attendance of the forensic chemist, they should stipulate that the latter would have testified that he or she took the precautionary steps mentioned.

Here, the testimony of Forensic Chemist Dela Cruz-Alviar was dispensed with since both the prosecution and the defense stipulated on her proposed testimony. Both the defense and the prosecution stipulated on the following, thus: 1) the qualifications of Forensic Chemist Dela Cruz-Alviar; 2) her receipt of the subject specimens from Patrolman Kilasen; 3) that she tested the specimens and found them positive for *methamphetamine hydrochloride*, a dangerous drug; 4) that she followed the necessary steps to preserve the integrity of the specimens from the time of her examination to the turn-over of the specimen to evidence custodian PO2 Tuccad; and 5) that she reduced her findings in Chemistry Report No. D-982-19-A. In these stipulations, there was no question from the defense pertaining to any sign or indication that the specimens were altered or substituted.

Finally, evidence custodian PO2 Tuccad submitted in court as evidence the same specimens subjected for laboratory examination.<sup>74</sup> In turn, the specimens presented in court were positively identified by PCpl. Cabañero to be the same items bought (“MGC-RDC-BB 4-10-19”) and recovered (“MGC-

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<sup>71</sup> *Rollo*, p. 13.

<sup>72</sup> *People v. Dela Peña*, 754 Phil. 323, 337 (2015) [Per J. Villarama, Jr., Third Division].

<sup>73</sup> 654 Phil. 461, 466 (2011) [Per J. Abad, Second Division] as cited in *People v. Ramos*, G.R. No. 254261 (Notice), [October 13, 2021].

<sup>74</sup> *Rollo*, p. 28.

RE-1 4-10-19, etc.”) from appellants through the markings inscribed in each plastic sachet.<sup>75</sup>

From the time the illegal drugs were seized from appellants, up to their delivery to the crime laboratory for chemical examination, until their presentation in evidence before the trial court, the integrity and evidentiary value of said items were preserved. No evidence was adduced by the defense showing that they were tainted in any manner.<sup>76</sup>

Against the overwhelming evidence of the prosecution, appellants merely denied the accusations against them.<sup>77</sup> In prosecutions for violation of Republic Act No. 9165, credence is given to the testimonies of the prosecution witnesses especially when the police officers are presumed to have properly performed their official duties in the absence of any clear showing that the arresting officers had ill motive to falsely testify against appellants. Appellants, too, failed to indict any members of the buy-bust team despite claiming that they were falsely charged with violation of Republic Act No. 9165.<sup>78</sup> Where there is no evidence that the principal witness for the prosecution was actuated by improper motive, the presumption is that he or she was not actuated and his or her testimony is entitled to full faith and credit.<sup>79</sup>

Indubitably, this case showcases how a strict compliance in the chain of custody rule can be sufficiently complied with from the point of marking, inventory, and photography of the seized item at the site of arrest in the presence of the insulating witnesses, to its delivery to the duty investigator and to its transport to the laboratory for examination until the same is admitted and identified in court. The buy-bust team here proves that if the ultimate aim of police officers is achieving justice, there is no difficulty on their part in following the chain of custody rule.<sup>80</sup>

All told, the Court of Appeals did not commit reversible error when it affirmed the verdict of conviction for violations of Article II, Sections 5 and 11 of Republic Act No. 9165 against appellants.

## Penalty

Sections 5 and 11 of Republic Act No. 9165 read, thus:

<sup>75</sup> *People v. Madrigal*, G.R. No. 252674 (Notice), [January 5, 2022].

<sup>76</sup> *People v. Dela Peña*, 754 Phil. 323, 344 (2015) [Per J. Villarama, Jr., Third Division].

<sup>77</sup> See *People v. Dejos*, G.R. No. 237423 (October 12, 2020) [Per J. Inting, Second Division].

<sup>78</sup> *People v. Garcia*, G.R. No. 247908 (Notice), [August 24, 2020].

<sup>79</sup> *People v. Dela Peña*, 754 Phil. 323, 334 (2015) [Per J. Villarama, Jr., Third Division].

<sup>80</sup> See Concurring Opinion of Justice Caguioa in *People v. Siu Ming Tat*, G.R. No. 246577, July 13, 2020 [Per. J. Reyes, Jr., First Division].



SEC. 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.

....

SEC. 11. *Possession of Dangerous Drugs.* — *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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:*

....

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of x x x methamphetamine hydrochloride or “shabu”

....

Pursuant to Article II, Section 5 of Republic Act No. 9165, appellants were correctly sentenced to life imprisonment and fined in the amount of PHP 500,000.00.

On the other hand, under Article II, Section 11 of Republic Act No. 9165, illegal possession of less than five grams of *shabu* is penalized with imprisonment of twelve (12) years and one (1) day to twenty (20) years and fine ranging from PHP 300,000.00 to PHP 400,000.00. *People v. Dadang*<sup>81</sup> ordained that applying the Indeterminate Sentence Law, the Court shall sentence the accused to an indeterminate sentence, the minimum term of which shall not be less than the minimum fixed by law and the maximum of which shall not exceed the maximum term prescribed by the same.<sup>82</sup>

Thus, appellants were correctly sentenced to the indeterminate penalty of twelve (12) years and one (1) day to fourteen (14) years, and eight (8) months of imprisonment and fine of PHP 300,000.00 for violation of Article II, Section 11 of Republic Act No. 9165.

<sup>81</sup> G.R. No. 242880, January 22, 2020 [Per J. J.C. Reyes, Jr., First Division] as cited in *People v. Jimenez*, G.R. No. 251438 (Notice), December 7, 2021.

<sup>82</sup> *People v. Bernal*, G.R. No. 242946 (Notice), June 14, 2021.

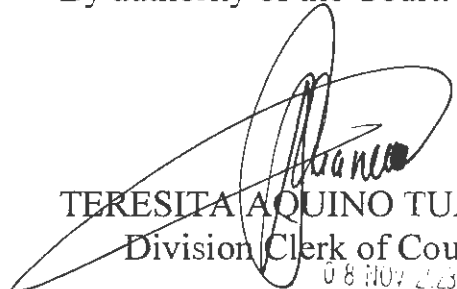
**FOR THESE REASONS**, the appeal is **DISMISSED**. The Decision dated February 24, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 13573 is **AFFIRMED**.

In **Criminal Case No. R-QZN-19-06939-CR**, appellants Rosalia Dela Cruz, Gil Blanca, and Shane Cruz are found **GUILTY** of illegal sale of dangerous drugs defined and penalized under Article II, Section 5 of Republic Act No. 9165, as amended by Republic Act No. 10640. They are sentenced to **life imprisonment** and a **FINE** of **PHP 500,000.00**.

In **Criminal Case No. R-QZN-19-06942-CR**, appellants Rosalia Dela Cruz, Gil Blanca, and Shane Cruz are found **GUILTY** of illegal possession of dangerous drugs defined and penalized in Article II, Section 11 of Republic Act No. 9165, as amended by Republic Act No. 10640. They are sentenced to the indeterminate penalty of **twelve (12) years and one (1) day, as minimum, to fourteen (14) years, and eight (8) months as maximum** and a **FINE** of **PHP 300,000.00**.

**SO ORDERED.**"

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court #17  
08 NOV 2023

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THE DIRECTOR (reg)  
Bureau of Corrections  
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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 79  
Quezon City  
(Crim. Case Nos. R-QZN-19-06939-CR &  
R-QZN-19-06942-CR)

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