



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Cagayan de Oro City
SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **March 8, 2023** which reads as follows:*

“**G.R. No. 256958 (People of the Philippines, Plaintiff-Appellee v. Cynthia Rea y Barito, Accused-Appellant).** — This Court (1) **NOTES** the letter dated February 22, 2023 of CTSupt. Elsa A. Alabado, Acting Superintendent, Correctional Institution for Women, Mandaluyong City, confirming the confinement of accused-appellant Cynthia Rea y Barito (*Rea*) in their institution on September 21, 2018, and (2) **RESOLVES** an appeal¹ from the Decision² of the Court of Appeals (*CA*) in CA-G.R. CR HC No. 12670, which affirmed the Consolidated Decision³ of the Regional Trial Court (*RTC*), Lucena City, in Criminal Case Nos. 2017-576 and 2017-577, finding Rea guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act (*R.A.*) No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Facts

Two Informations were filed against Rea, charging her with violations of Sections 5 and Section 11, Article II of R.A. No. 9165, the accusatory portion of which reads:

Criminal Case No. 2017-576

That on or about the 16th day of March, 2017, in the City of Lucena, Province of Quezon, Philippines, and within the jurisdiction of this Honorable

¹ *Rollo*, pp. 3–4.

² *Id.* at 9–36. The February 21, 2020 Decision was penned by Associate Justice Fernanda Lampas Peralta, and concurred in by Associate Justices Myra V. Garcia-Fernandez and Ruben Reynaldo G. Roxas of the Second Division, Court of Appeals, Manila.

³ *Id.* at 38–50. The July 11, 2018 Decision was penned by Presiding Judge Agripino R. Bravo of Branch 55, Regional Trial Court, Lucena City.

Court, the accused, without authority of law, did then and there knowingly, willfully, and feloniously have in her possession, custody and control twelve (12) pieces of plastic sachets containing METHAMPHETAMINE HYDROCHLORIDE (Shabu) weighing a total 54.1634 grams, as indicated in Chemistry Report No. D-232-17, knowing the same to be dangerous drug under the provisions of the above-cited law.

CONTRARY TO LAW.⁴

Criminal Case No. 2017-577

That on or about the 16th day of March, 2017, in the City of Lucena, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the accused, without authority from law, did then and there knowingly, willfully and illegally sell to a Police Officer, who acted as poseur buyer, one (1) heat sealed transparent plastic sachet containing 2.0771 grams of Methamphetamine Hydrochloride (shabu), a dangerous drug, as indicated in Chemistry Report No. D-232-17, in exchange of six (6) pieces of Php1,000.00 bills used as marked money, in violation of aforesaid law.

CONTRARY TO LAW.⁵

Upon arraignment, Rea pleaded not guilty to the charges against her.⁶ Thereafter, trial on the merits ensued.

The antecedent facts, as summarized by the CA, are as follows:

On March 15, 2017, around 9:30 P.M., [Police Officer 2] Victor A. Poblete (PO2 Poblete), [a] member of [the Intelligence]/Drug Enforcement Unit, Lucena City Police Station, Lucena City, received information from a civilian confidential informant that a certain [*alias* Cynthia,] later identified as herein accused-appellant Rea, was involved in selling illegal drugs at Purok [3]B, Barangay Dalahican, Lucena City. After getting all the necessary information from the confidential informant, team leader [Senior Police Officer 1] Jonathan Eugenio formed a buy-bust team, designating PO2 Poblete as poseur-buyer. Pre-operation Report and Authority to Operate were signed by SPO1 Jonathan Eugenio and sent to the Philippine Drug Enforcement Agency (PDEA), Camp Vicente Lim, Calamba, Laguna *via* email. Upon receipt by PDEA of the coordination documents, the Pre-operation Report and Authority to Operate were assigned Control Number 10005-032017-0331.

Before proceeding to the designated area, Police Blotter Entry No. 2017-1728 was recorded in the Police Blotter Book of Lucena City Police Station disclosing that the buy-bust operation will take place on March 16, 2017 at 1:05 A.M. Buy-bust money consisting of six (6) pieces of authentic [PHP] 1,000.00 bill with serial numbers SQ533300, ER291594, BX887593, DF322045, ET439702, and HM159368, marked with a check on the *Bangko Sentral ng Pilipinas* logo were also prepared. Before the buy-bust team left the police station, the confidential informant called Rea to ask if the latter

⁴ *Id.* at 38.

⁵ *Id.* at 39.

⁶ Records, p. 60. Order dated May 11, 2017.

the police station, the confidential informant called Rea to ask if the latter had *shabu* worth [PHP] 6,000.00 at that time. [Rea] confirmed that she had the items.

Around 1:05 A.M. of March 16, 2017, the buy-bust team proceeded to the designated area at Purok 3B, Barangay Dalahican, Lucena City. Considering the distance between the police station and Barangay Dalahican, the team arrived at the designated area around 1:45 A.M. PO2 [Poblete] and the confidential informant proceeded to [Rea]'s house while the other members of the buy-bust team hid themselves in the vicinity. Upon reaching the designated area, the confidential informant called [Rea] and notified the latter that they were outside her house.

After a few minutes, [Rea] approached PO2 [Poblete] and the confidential informant. Without any introduction, [Rea] asked for the money. PO2 [Poblete] handed the marked [PHP] 6,000.00 to [Rea] who, upon receiving the money, placed it inside her pink pouch wallet while giving to PO2 [Poblete] a transparent heat-sealed plastic sachet containing *shabu*. At that point, PO2 [Poblete] called their team leader through his cellular phone as a prearranged signal to his team that the sale was consummated.

Thereafter, the other members of the buy-bust team rushed to the transaction area while PO2 [Poblete] immediately held the hands of [Rea] as he introduced himself as a police officer. PO2 [Poblete] recovered from [Rea] her pink pouch wallet which contained one (1) digital weighing scale, one (1) unit Samsung cellular phone, twelve (12) pieces heat-sealed transparent plastic sachets containing *shabu* and the [PHP] 6,000.00 marked money he handed her earlier.

Barangay Chairman Pedro Castillo and Barangay *Kagawad* Gaudencio Malarasta, together with media representative Tony Sandoval of PSN-Channel 6[,] arrived at the place of the incident, witnessed the conduct of the inventory, and signed the *Certificate of Inventory* dated March 16, 2017. Apart from the six (6) pieces of pre-marked [PHP] 1,000.00-bill used as marked money, PO2 [Poblete] placed his markings on the seized items as follows: (i) one sachet of *shabu* which he bought from [Rea], as "CBR-BB"; (ii) twelve (12) sachets he recovered from [Rea]'s pink pouch wallet, as "CBR-POSS1" to "CBR-POSS12"; (iii) digital weighing scale, as "CBR-1"; (iv) pink pouch wallet, as "CBR"; and (v) Samsung cellular phone, as "CBR-2." PO3 Michael C. Subieto took pictures of the marking and conduct of inventory in the presence of Barangay Chairman Pedro Castillo, Barangay *Kagawad* Gaudencio Malarasta, media representative Tony Sandoval, and [Rea].

The buy-bust team proceeded to the Lucena City Police Station where PO3 Michael C. Subieto entered the details of the buy-bust operation (Police Blotter Entry No. 2017-1730) in the Police Blotter Book, through desk officer SPO3 Paul Pelaez. Then, [Rea] and the seized items were brought by PO2 Poblete to the Provincial Crime Laboratory Office for laboratory examination.

Upon examination by Forensic Chemist [Police Chief Inspector] Zaide Fausto-Abrera (*PCInsp. Fausto-Abrera*), the specimens tested positive for *Methamphetamine Hydrochloride (shabu)*. Thereafter, *PCInsp.* Fausto-Abrera turned over the seized items to the evidence custodian, Police [O]fficer Meldy Arojo, for safe-keeping.

For her part, [Rea] denied having sold drugs to PO2 [Poblete]. She alleged that (i) on March 15, 2017, between 10:45 and 11:00 P.M, [she] was walking on the street to buy *pandesal* at a nearby bakery when a group of more or less six men suddenly flashed a bright light on her face; (ii) the group of men approached her and asked her to show them “something,” but when she failed to do so, they brought her to the house of Gigi Encina; (iii) upon entering the house, however, Gigi Encina and only two children were inside the room; (iv) then, she was brought to the barangay hall, and, in the presence of a barangay *tanod*, stayed thereat for several hours; (v) when the barangay officials arrived around 4:00 A.M of March 16, 2017, she complained to them about her detention, which they ignored; (vi) instead, they brought her to the place where [Rea] was arrested the night before and placed several plastic sachets and money on a table; and, (vii) when [Rea] asked to whom the items belong, they just ignored her.⁷

After trial on the merits, the RTC rendered the Consolidated Decision⁸ finding Rea guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of R.A. No. 9165:

WHEREFORE, IN VIEW OF THE FOREGOING, finding that the prosecution proved the guilt of the accused beyond reasonable doubt, this Court hereby renders judgment as follows:

1. In Criminal Case No. 2017-576 for Violation of Section 11 (possession), Article II of R.A. No. 9165, this Court finds herein accused, Cynthia Rea y Barito, GUILTY beyond reasonable doubt and hereby sentences her to suffer the penalty of *Life Imprisonment* and a Fine of [Five] Hundred Thousand [Pesos] ([PHP] 500,000.00) each with subsidiary imprisonment in case of insolvency; and
2. In Criminal Case No. 2017-577 for Violation of Section 5 (sale), Article II of R.A. No. 9165, this Court finds herein accused, Cynthia Rca y Barito, GUILTY beyond reasonable doubt and hereby sentences her to suffer the penalty of *Life Imprisonment* and a Fine of [Five] Hundred Thousand Pesos ([PHP] 500,000.00) each with subsidiary imprisonment in case of insolvency.

Considering the penalties imposed by the Court, let the corresponding *Mittimus* issue, and the immediate commitment of accused Cynthia Rea y Barito to the Correctional Institution for Women, Mandaluyong City, is hereby ordered.

The period of detention of accused Cynthia Rea y Barito shall be given full credit.

The items subject matter of these cases are ordered forfeited in favor of the government and hereby ordered to be brought to [the Philippine Drug Enforcement Agency] for their proper disposition.

SO ORDERED.⁹

⁷ *Rollo*, pp. 10–13.

⁸ *Id.* at 38–50.

⁹ *CA rollo*, pp. 49–50.

Rea appealed her convictions to the CA. However, the same was denied by the CA in the assailed Decision.¹⁰ The dispositive portion reads:

WHEREFORE, the appeal is **DENIED** for lack of merit. Accordingly, the trial court's Consolidated Decision dated July 11, 2018 is **AFFIRMED**.

SO ORDERED.¹¹ (Emphasis in the original)

Hence, the instant appeal.

Issue

The issue presented for the resolution of this Court is whether the prosecution was able to prove beyond reasonable doubt the guilt of Cynthia Rea y Barito for the crimes of illegal sale of dangerous drugs and illegal possession of dangerous drugs.

This Court's Ruling

The appeal lacks merit.

For a charge of illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165, the prosecution must establish the following: (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.¹²

Meanwhile, for a charge of illegal possession of dangerous drugs under Section 11, Article II of R.A. No. 9165, the prosecution must prove the following elements: (a) the accused is in possession of an item or object which is identified to be a prohibited drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed said drug.¹³

In this case, the illegal drugs were recovered from Rea pursuant to a buy-bust sale conducted by the police officers on the night of March 15, 2017 after a confidential informant informed the police officers that an *alias* Cynthia was selling *shabu*, an illegal drug, at Purok 3B, Barangay Dalahican, Lucena City.

¹⁰ *Rollo*, pp. 9-36.

¹¹ *Rollo*, p. 35.

¹² *People v. Ismael*, 806 Phil. 21 (2017) [Per J. del Castillo, First Division].

¹³ *People v. Gayoso*, 808 Phil. 19 (2017) [Per J. del Castillo, First Division].

A buy-bust operation is a form of entrapment, which in recent years has been accepted as a valid means of arresting violators of the Dangerous Drugs Law. It is commonly employed by police officers as an effective way of apprehending law offenders in the act of committing a crime.¹⁴ In *People v. Llamado*,¹⁵ this Court held that it is the duty of the prosecution to present a complete picture detailing the buy-bust operation—from initial contact between the poseur-buyer and the pusher, the offer to purchase, the promise or payment of the consideration; until the consummation of the sale by the delivery of the illegal subject of sale.¹⁶

In its Decision, the CA affirmed the finding of the trial court that there was a valid buy-bust sale conducted against Rea.

After a careful review of the records, this Court agrees that the prosecution was able to discharge its duty to present the complete details of the buy-bust sale based on the testimony of PO2 Poblete.

In his testimony, PO2 Poblete successfully narrated the details of the buy-bust sale. He stated that on the night of March 15, 2017, the confidential informant arrived at the police station and informed PO2 Poblete that an *alias* Cynthia was selling *shabu*, an illegal drug, at Purok 3B, Brgy. Dalahican, Lucena City. After getting all the necessary information from the confidential informant, a buy-bust team was formed where PO2 Poblete was designated as the poseur-buyer. The buy-bust team then coordinated with the PDEA Region 4A for the conduct of the buy-bust sale. Before the buy-bust team left the police station, the confidential informant called Rea to ask if the latter had *shabu* worth PHP 6,000.00 at that time. Rea confirmed that she had the item.

Upon arrival at the house of Rea, the confidential informant told her that the buyer was already outside near her house. After a few minutes, Rea approached PO2 Poblete and the confidential informant, and asked for the money. PO2 Poblete handed the marked money of PHP 6,000.00 to Rea who, upon receiving the money, placed it inside her pink pouch wallet while giving to PO2 Poblete one transparent heat-sealed plastic sachet containing *shabu*. The delivery of one plastic sachet of *shabu* to PO2 Poblete and the receipt by Rea of the marked money consummated the crime of illegal sale of dangerous drugs. Thereafter, PO2 Poblete called their team leader through his cellular phone as a prearranged signal and then PO2 Poblete arrested Rea.

As gleaned from his testimony, PO2 Poblete presented a complete picture of the buy-bust sale transaction, from the initial contact with Rea, through the confidential informant, to the offer and purchase of PHP 6,000.00

¹⁴ *People v. Hilario*, 823 Phil. 580, 597 (2018) [Per J. Leonardo-de Castro, First Division], citing *People v. Ong*, 476 Phil. 553, 571 (2004) [Per J. Puno, *En Banc*].

¹⁵ 600 Phil. 591 (2009) [Per J. Ynares-Santiago, Third Division].

¹⁶ *Id.* at 598.

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worth of *shabu*, and the consummation of the sale by the delivery of the *shabu* (marked as “CBR-BB”) and the PHP 6,000.00 marked money between him, as poseur-buyer, and Rea, thus satisfying the “objective test” in proving the validity of the buy-bust operation.

In *People v. Ong*,¹⁷ the Court emphasized the so-called “objective test” in determining the existence of a valid buy-bust operation, thus:

In *People v. Doria*, we stressed the “objective” test in buy-bust operations. We ruled that in such operations, the prosecution must present a *complete picture* detailing the transaction, which “must start from the initial contact between the poseur-buyer and the pusher, the offer to purchase, the promise or payment of the consideration until the consummation of the sale by the delivery of the illegal drug subject of the sale. We emphasized that the manner by which the initial contact was made, the offer to purchase the drug, the payment of the ‘buy-bust’ money, and the delivery of the illegal drug must be the subject of strict scrutiny by courts to *insure that law-abiding citizens are not unlawfully induced to commit an offense.*”¹⁸ (Emphasis in the original)

The testimony of PO2 Poblete likewise shows that after Rea was placed under arrest, he recovered a pink pouch containing 12 more plastic sachets of *shabu* from her possession. The subsequent recovery of the 12 plastic sachets of *shabu* consummated the crime of illegal possession of dangerous drugs since there was nothing in the record showing that Rea had the authority to possess the said dangerous drug. It has been held that possession of a regulated drug *per se* constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused absent a satisfactory explanation of such possession; the *onus probandi* is shifted to the accused, to explain the absence of knowledge or *animus possidendi*.¹⁹

Further, in all prosecutions for violations of R.A. No. 9165, the *corpus delicti* is the dangerous drug itself, the existence of which is essential to a judgment of conviction. Thus, its identity must be clearly established.²⁰ The rationale for this was explained by this Court as follows:

Narcotic substances are not readily identifiable. To determine their composition and nature, they must undergo scientific testing and analysis. Narcotic substances are also highly susceptible to alteration, tampering, or contamination. It is imperative, therefore, that the drugs allegedly seized from the accused are the very same objects tested in the laboratory and offered in court as evidence. The chain of custody, as a method of authentication, ensures that unnecessary doubts involving the identity of seized drugs are removed.²¹

¹⁷ *Supra* at 14.

¹⁸ *Id.* at 572.

¹⁹ *People v. Eida*, 793 Phil. 885, 898 (2016) [Per J. Peralta, Third Division].

²⁰ *People v. Jaafar*, 803 Phil. 582, 591 (2017) [Per J. Leonen, Second Division].

²¹ *Id.* (Citations omitted)

With regard to the *corpus delicti*, Section 21 of R.A. No. 9165, as amended by R.A. No. 10640,²² provides specific procedure on the custody and disposition of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia. Particularly, concerning the custody of the dangerous drugs before filing a criminal case, Section 21, as amended, provides:

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

(1) The apprehending team having initial custody and control of the 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 persons 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.

2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: Provided, That 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 provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued immediately upon completion of the said examination and certification[.]

²² An Act to Further Strengthen then 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" (2014).

This Court has held that while the strict step-by-step adherence to the procedural requirements is ideal, what is important is to ensure the preservation of the integrity and the evidentiary value of the seized items.²³ Thus, substantial compliance therewith may be allowed for as long as the integrity and the evidentiary value of the seized illegal drugs are shown to have been preserved, as the same would be utilized in the determination of the guilt or innocence of the accused.²⁴

Conformably, *People v. Watamama*²⁵ specified the four links that must be established in the chain of custody of the confiscated dangerous drugs:

Instructive is the case of *People v. Kamad*, where the Court enumerated the different links that the prosecution must endeavor to establish with respect to the chain of custody in a buy-bust operation: first, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; second, the turn over of the illegal drug seized by the apprehending officer to the investigating officer; third, the turn over by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turn over and submission of the marked illegal drug seized by the forensic chemist to the court.²⁶ (Citation omitted)

This Court finds that there was compliance by the police officers with Section 21 of R.A. No. 9165 and the chain of custody rule. Thus, no reversible error was committed by the Court of Appeals in finding that the identity and integrity of the seized dangerous drugs had been duly preserved.

In this case, the *first* link in the chain of custody started with the seizure of one plastic sachet of *shabu* by PO2 Poblete subject of the buy-bust sale, and the subsequent recovery of 12 more plastic sachets of *shabu* from Rea after her arrest. Immediately after confiscation, PO2 Poblete marked the seized one plastic sachet of *shabu* subject of the buy-bust with the initial “CBR-BB,” while the 12 plastic sachets of *shabu* taken from Rea after her arrest was marked with the initials “CBR-POSS1” to “CBR-POSS12.”

The marking and inventory of the seized illegal drugs were done at the place of arrest and in the presence of Rea, and witnessed by Barangay Chairman Pedro Castillo, Barangay Kagawad Gaudencio Malarasta, and media representative Tony Sandoval as shown by the Certificate of Inventory signed by said witnesses. PO2 Poblete was likewise present as further shown by the photographs taken by PO3 Michael Subieto during the marking and inventory. This complies with the witness requirement as amended by Republic Act No. 10640, which is the applicable law considering that the buy-bust occurred in 2017.

²³ *People v. Calvelo*, 822 Phil. 423, 445 (2017) [Per J. Martires, Third Division].

²⁴ *Miclat, Jr. v. People*, 672 Phil. 191, 208 (2011) [Per J. Peralta, Third Division].

²⁵ 692 Phil. 102 (2012) [Per J. Villarama, Jr., First Division]. (Citation omitted)

²⁶ *Id.* at 107.

Under the *second, third, and fourth* links, after the buy-bust operation, the buy-bust team proceeded to the Lucena City Police Station where PO3 Subieto entered the detail of the buy-bust operation in the police blotter. Thereafter, PO2 Poblete brought the seized illegal drugs together with the Request for Laboratory Examination to the Quezon Provincial Crime Laboratory Office for forensic examination. Taking into account that PO2 Poblete acted both as the arresting officer and the investigating officer who turned over the specimens to the crime laboratory, the seized illegal drugs clearly did not change hands.²⁷ Thus, there could not have been a break in the second and third links in the chain of custody.

After SPO2 Dennis Rada received the request for laboratory examination of the specimens, these were then examined by PCInsp. Fausto-Abrera who prepared a Chemistry Report No. D-232-17 stating that the specimens were positive for *shabu*. The qualifications of PCInsp. Fausto-Abrera and the existence, due execution, and veracity of the contents of the said report were stipulated by the parties. Thereafter, PCInsp. Fausto-Abrera turned over the seized illegal drugs to the evidence custodian, PO Meldy Arojo, whose testimony was also stipulated by the parties, for safe-keeping, and eventually to the trial court.

The totality of the evidence on record leads to an unbroken chain of custody of the seized illegal drugs from Rea. The crucial links in the chain of custody of the seized illegal drugs—from the time they were seized from Rea until the same were brought for laboratory examination and later, presented in court—were all clearly established. This Court, therefore, holds that the integrity and evidentiary value of the illegal drugs seized from Rea were adequately preserved and safeguarded.

In sum, the evidence on record clearly showed that the rule on chain of custody was complied with and that the integrity and the evidentiary value of the illegal drugs seized from Rea were duly preserved. It is a well-settled principle that there is a presumption of regularity in the performance of official duty by the apprehending officers, unless proven otherwise by clear and convincing evidence. Thus, Rea also bears the burden of showing that the evidence was tampered or meddled with in order to overcome the presumption of regularity in the handling of exhibits by the apprehending officers and the presumption that they properly discharged their duties.²⁸ The integrity of the evidence is presumed to have been preserved unless there is a showing of bad faith, ill will, or proof that the evidence has been tampered with,²⁹ which Rea failed to do so.

²⁷ *People of the Philippines v. Omar*, G.R. No. 238870, October 6, 2021 [Per J. J. Lopez, First Division] at 18. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

²⁸ *People v. Bocadi*, 762 Phil. 468, 482 (2007) [Per J. Perez, First Division].

²⁹ *People v. De Mesa*, 638 Phil. 245, 254 (2010) [Per J. Nachura, Second Division].

Rea could only muster the defense of denial which cannot overcome the positive and categorical testimony of the prosecution witnesses. As held by this Court:

Denial cannot prevail against the positive testimony of a prosecution witness. "A defense of denial which is unsupported and unsubstantiated by clear and convincing evidence becomes negative and self-serving, deserving no weight in law, and cannot be given greater evidentiary value over convincing, straightforward and probable testimony on affirmative matters."

Appellant cannot likewise avail of the defense of frame-up which "is viewed with disfavor since, like alibi, it can easily be concocted and is a common ploy in most prosecutions for violations of the Dangerous Drugs Law." To substantiate this defense, the evidence must be clear and convincing and should show that the buy-bust team was inspired by improper motive or was not properly performing its duty.³⁰

Further, in *People v. Omar*,³¹ this Court ruled that the numerous sachets of drugs seized diminishes the possibility of planting or tampering of evidence, thus:

In *People v. Lung Wai Tung*, the Court considered the quantity of shabu consisting of almost eight (8) kilograms to provide strong probative value favoring the prosecution's version of events. Applying the Court's ratiocinations analogously to the facts in this case, We cannot overlook the total of 80 sachets recovered in the police officers' operation. Such large quantity of sachets of prohibited drugs are not easily planted, tampered or manipulated. This is all the more persuasive when coupled with the CA's findings that Rascal did not resist when the police officers arrested him nor filed any charge against the police officers after the alleged wrongful accusation. Lastly, Rascal admitted to the picture taken of them in front of the cemetery during the inventory of the seized drug sachets. In the said picture, the representatives from the media, DOJ, and a *barangay kagawad* were present. Without proof of any intent on the part of the police officers to falsely impute to appellants the commission of a crime, the presumption of regularity in their performance of official duty and the principle that the findings of the trial court on the credibility of witnesses are entitled to great respect, deserve to prevail over the bare denials and self-serving claims of frame-up by appellants.³² (Citation omitted)

Similarly, in this case, in addition to the one plastic sachet of *shabu* subject of the buy-bust sale, the police officers also recovered from Rea 12 plastic sachets of *shabu* in her possession. Thus, we find unreliable Rea's defense that there was no buy-bust conducted. The considerable quantity of the seized illegal drugs totaling 56.2405 grams renders her claim that the seized illegal drugs were planted by the police officers difficult to believe.

³⁰ *People v. Salvador*, 726 Phil. 389, 402-403 (2014) [Per J. del Castillo, Second Division].

³¹ *Supra* note 27.

³² *Id.* at 18. This pinpoint citation refers to the copy of this Decision as uploaded to the Supreme Court website.

Unlike miniscule amounts, a large quantity of drugs is not as susceptible to planting, tampering, or alteration.³³

Accordingly, this Court affirms the conviction of Rea as her guilt was duly proven beyond reasonable doubt.

Nonetheless, we find that there is a need to clarify the imposition of subsidiary imprisonment in case of insolvency. In *Luy v. People*,³⁴ we have held that subsidiary imprisonment cannot be imposed upon the accused if the principal penalty is higher than *prision correccional* or imprisonment for six years. Article 39 of the Revised Penal Code (*RPC*) is clear on this matter:

ARTICLE 39. Subsidiary Penalty. — If the convict has no property with which to meet the pecuniary liabilities mentioned in paragraphs 1st, 2nd and 3rd of the next preceding article, he shall be subject to a subsidiary personal liability at the rate of one day for each 2 pesos and 50 centavos, subject to the following rules:

....

3. When the principal penalty imposed is higher than *prisión correccional* no subsidiary imprisonment shall be imposed upon the culprit.

Here, considering that the imposed penalty is life imprisonment, the courts *a quo* erred in imposing the penalty of subsidiary imprisonment in the event of Rea's failure to pay the fines due to insolvency. Thus, the same must be removed.

FOR THESE REASONS, the appeal is **DENIED** for lack of merit. The Decision of the Court of Appeals dated February 21, 2020 in CA-G.R. CR HC No. 12670 is **AFFIRMED WITH MODIFICATION**.

For violation of Section 5, Article II of Republic Act No. 9165, accused-appellant Cynthia Rea y Barito is found guilty beyond reasonable doubt, and is sentenced to suffer the **PENALTY OF LIFE IMPRISONMENT** and to **PAY** a **FINE** of Five Hundred Thousand Pesos (PHP 500,000.00).

For violation of Section 11, Article II of Republic Act No. 9165, accused-appellant Cynthia Rea y Barito is also found guilty beyond reasonable doubt, and is sentenced to suffer the **PENALTY OF LIFE IMPRISONMENT** and to **PAY** a **FINE** of Five Hundred Thousand Pesos (PHP 500,000.00).

³³ *People of the Philippines v. Lung Wai Tang*, G.R. No. 238517, November 27, 2019 [Per J. Zalameda, Third Division] at 10. This pinpoint citation refers to a copy of the Decision uploaded to the Supreme Court website.

³⁴ 797 Phil. 201, 214 (2016) [Per J. Bersamin, First Division].

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *12/21*
21 DEC 2023

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**CYNTHIA REA y BARITO (reg)
Accused-Appellant
c/o The Superintendent
Correctional Institution for Women
1550 Mandaluyong City

***THE SUPERINTENDENT (reg)
Correctional Institution for Women
1550 Mandaluyong City

*CTSUPT. ELSA A. ALABADO (reg)
Acting Superintendent
Correctional Institution for Women
1550 Mandaluyong City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 55
Lucena City
(Crim. Case Nos. 2017-576 & 2017-577)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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CA-G.R. CR-HC No. 12670

*For this resolution only
**with copies of the July 26, 2023 Resolution &
February 21, 2020 CA Decision
***with a copy of the July 26, 2023 Resolution
Please notify the Court of any change in your address.
GR256958. 3/08/2023(231 & 362)URES