



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINE  
 PUBLIC INFORMATION OFFICE

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**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff-Appellee,*

**G.R. No. 229828**

Present:

- versus -

**BERSAMIN, C.J.,**  
**DEL CASTILLO,**  
**REYES, JR., A.,\***  
**GESMUNDO, and**  
**CARANDANG, JJ.**

**ELSIE JUGUILON y EBRADA,**  
*Accused-Appellant.*

Promulgated:  
**JUN 26 2019**

X -----

*[Signature]*  
 X

**DECISION**

**DEL CASTILLO, J.:**

This is an appeal from the July 30, 2015 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CEB-CR HC NO. 01424 affirming the July 25, 2011 Judgment<sup>2</sup> of the Regional Trial Court (RTC) of Cebu City, Branch 57 in Criminal Case No. CBU-79460, finding Elsie Juguilon<sup>3</sup> y Ebrada (appellant) guilty of violation of Section 5 (Illegal Sale of *Shabu*), Article II of Republic Act (RA) No. 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

Appellant was charged in an Information that reads:

That on or about the 20<sup>th</sup> day of February 2007, at about 1:00 in the afternoon, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, without being authorized by law, did then and there sell, deliver or give away to a poseur

\* Per Raffle dated September 6, 2017.

<sup>1</sup> CA rollo, pp. 107-117; penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Edgardo L. Delos Santos and Renato C. Francisco.

<sup>2</sup> Records, pp. 311-322; penned by Presiding Judge Enriqueta Loquillano-Belarmino.

<sup>3</sup> Also spelled as "Juguelon" "Ogilon" in some parts of the records.

*[Signature]*

buyer Two (2) heat sealed transparent plastic packs of white crystalline substance, [with] a total net weight of 48.65 grams known as SHABU, containing Methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>4</sup>

On arraignment, the appellant pleaded not guilty to the crime charged. Thereafter, trial on the merits ensued.

### ***Version of the Prosecution***

On the second week of February 2007, the Philippine Drug Enforcement Agency (PDEA) Office in Cebu City received information that appellant was engaged in the illegal drug trade in *Barangay* Carreta, Cebu City. PDEA Regional Director Amado E. Marquez, Jr. (RD Marquez) instructed SPO2 Ramil B. Villaluz to verify the information, a task that was subsequently assigned to PO2 Rey<sup>5</sup> Robert S. Villarete (PO2 Villarete) and PO2 George Cansancio (PO2 Cansancio). A three-day surveillance confirmed the veracity of the report. Appellant's errand boy (the informant) volunteered to help the PDEA. At around 10:00 a.m. of February 20, 2007, the informant told PO2 Villarete that appellant had *shabu* and that the latter was willing to meet them in front of the Cebu Health Office at Gen. Maxilom Extension, Cebu City. PO2 Villarete immediately relayed the news to RD Marquez, who instructed SPO1 Antonio R. Cabal (SPO1 Cabal) to initiate a short briefing for a buy-bust operation. A team was thus formed to undertake the operation against appellant. PO2 Villarete was designated as the poseur-buyer and was provided with a marked ₱500 bill, along with a wad of papers wrapped in a newspaper which conveyed the impression of being boodle money. PO2 Cansancio served as back-up. Upon arriving at the target area in front of the Cebu Health Office at around 1:00 p.m., PO2 Villarete saw the informant with a female companion. After alighting from the vehicle, PO2 Villarete was introduced to appellant by the informant. PO2 Villarete asked how much a "*bulto*" or five grams would cost, and appellant answered that the price was ₱20,000.00. PO2 Villarete said that he wanted to buy 10 "*bultos*". Appellant handed to PO2 Villarete something wrapped in a newspaper sealed with tape. PO2 Villarete saw two plastic packs, and when he tore the edge of one pack, he found that it contained *shabu*. PO2 Villarete gave to appellant the marked money, but before appellant could count the money, PO2 Villarete sent a call to SPO1 Cabal as the pre-arranged signal that the transaction had been completed; and then introduced himself to appellant as a PDEA operative. PO2 Cansancio told appellant that she had committed a crime and advised her of her constitutional rights. After the

<sup>4</sup> Records, p. 1.

<sup>5</sup> Also spelled as "Ray" in some parts of the records.

arrest, the operatives proceeded to the PDEA Office with appellant, along with her daughter and the latter's *yaya* who shortly appeared.

At the PDEA Office, the seized plastic packs were marked by PO2 Villarete with the initials "EJ-02-20-07 1"<sup>6</sup> and "EJ-02-20-07 2" and signed each pack. Thereafter, an inventory of the items<sup>7</sup> was conducted in the presence of SPO1 Cabal, *Barangay* Sta. Cruz Councilor Elsa V. Iso (Councilor Iso), Prosecutor Rudolph Joseph Val J. Carillo (Prosecutor Carillo) and media representative Alan P. Domingo (Domingo) of the GMA-7. A photograph of appellant and the seized items together with the inventory witnesses was likewise taken.<sup>8</sup> A letter request for laboratory examination<sup>9</sup> together with the marked plastic packs was then transmitted by PO2 Villarete to the Philippine National Police (PNP) Regional Crime Laboratory Office 7; this letter-request was received by PO2 Fortes in the crime laboratory. The qualitative examination conducted on the specimen yielded positive for methamphetamine hydrochloride or *shabu* per Chemistry Report No. D-213-2007<sup>10</sup> of Forensic Chemical Officer Jude Daniel M. Mendoza (Forensic Chemist Mendoza).

### *Version of the Defense*

Appellant, a licensed midwife, denied the charge against her. She claimed that, at around 1:00 p.m. of February 20, 2007, she was with her daughter and a friend within the vicinity of the Cebu Health Office to have a Certificate of Live Birth typewritten by a typist working outside the health office.

Momentarily, an acquaintance of hers, Chadwick Tabotabo (Chadwick), who was inside a car, signalled her to come forward. When she was nearing Chadwick, she was suddenly pushed inside the car with her daughter and friend "Baki" and asked what she was holding. She was slapped when she said that it was tide powder which she had just bought from the supermarket. She was thereafter brought to the office of the PDEA.

### *Ruling of the Regional Trial Court*

The RTC found for the prosecution; it rejected appellant's defense of frame-up in light of the positive and categorical testimonies of the arresting

<sup>6</sup> "EJ 02-20-20-7 1" in the CA Decision.

<sup>7</sup> Exhibit "E", records, p. 81.

<sup>8</sup> Exhibits "H" and "I", id. at 83.

<sup>9</sup> Exhibit "A", id. at 78.

<sup>10</sup> Exhibit "C", id. at 79.

officers who were not ill motivated to charge her with such a serious crime. The RTC likewise found the chain of custody over the seized items duly established. Thus, on July 25, 2011, the RTC rendered a Judgment, the decretal portion of which reads:

WHEREFORE, premises considered, accused Elsie Juguilon is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00.

The two packs of shabu are forfeited in favor of the government for proper disposal.

SO ORDERED.<sup>11</sup>

Dissatisfied therewith, appellant appealed to the CA.

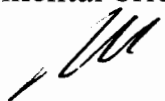
### ***Ruling of the Court of Appeals***

The CA upheld the conviction of appellant for violation of Section 5, Article II of RA 9165. It held that the prosecution was able to prove the existence of all the essential elements of an illegal sale of dangerous drugs. It rejected appellant's argument that the seized items were inadmissible in evidence, stressing that appellant was caught by the PDEA officers in *flagrante delicto* selling *shabu*; hence, her subsequent arrest was a valid warrantless arrest. The CA also stated that the existence of the *corpus delicti* had been proven as the integrity and evidentiary value of the drugs was preserved, thus establishing sufficiently an unbroken chain of custody.

Appellant moved for reconsideration but the same was denied by the CA in its September 7, 2016 Resolution.<sup>12</sup>

On October 28, 2016, appellant filed the present appeal.

In our Resolution dated April 24, 2017, we required the parties to file supplemental briefs, but both manifested that they were no longer filing such briefs.



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<sup>11</sup> Records, p. 322.

<sup>12</sup> CA *rollo*, pp. 158-159; penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Edgardo L. Delos Santos and Germano Francisco D. Legaspi.

### Our Ruling

The appeal lacks merit.

After reviewing the evidence on record, the Court is fully convinced that a legitimate buy-bust operation was indeed conducted against appellant.

To secure a conviction for illegal sale of *shabu*, the following essential elements must be established: (1) the identities of the buyer and the seller, the object of the sale and the consideration for the sale; and (2) the delivery of the thing sold and the payment therefor. What is material in the prosecution of an illegal sale of dangerous drugs is proof that the transaction or sale actually took place, coupled with the presentation of the *corpus delicti* in court as evidence.<sup>13</sup>

The evidence on record showed the presence of all these elements as culled from the testimony of PO2 Villarete, who represented himself as the poseur-buyer in the buy-bust operation. He categorically and positively identified the appellant as the seller of the dangerous drugs contained in plastic packs who handed him the same upon the latter giving her the marked ₱500 bill with the boodle money. PO2 Villarete's testimony was corroborated on material points by his back-up PO2 Cansancio and in part by PCI Lourdes Ingente as well as Forensic Chemist Mendoza who examined the items seized and found them to be positive for methamphetamine hydrochloride or *shabu*, a dangerous drug. This detailed account of PO2 Villarete was bolstered by the presentation in court of the *corpus delicti* which is the drug itself.

*Buy-bust operation legitimate;  
warrantless arrest and search valid.*

Appellant invokes illegal arrest and search. She avers that her warrantless arrest was illegal since she was not then committing any crime. Her averment fails to persuade. Under the circumstances portrayed by the prosecution's evidence, the arrest of appellant, albeit without warrant, was effected under Section 5(a), Rule 113 of the Rules of Court<sup>14</sup> or the arrest of

<sup>13</sup> *People v. Dalawis*, 772 Phil. 406, 419-420 (2015).

<sup>14</sup> RULES OF COURT, Rule 113, Section 5(a) provides:

a) when, in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense.

a suspect in *flagrante delicto*. Appellant was clearly arrested in *flagrante delicto* as she was then committing a crime, a violation of the Dangerous Drugs Act in the presence of the buy-bust team. Consequently, the seized items were admissible in evidence as the search, being an incident to a lawful arrest, needed no warrant for its validity.

Appellant further raises the following issues: (1) the absence of a prior surveillance; (2) the non-presentation of the original buy-bust money which was not dusted with fluorescent powder; and (3) the non-presentation of the informant. According to her, these cast doubt on the veracity of the operation. We however, find appellant's arguments unmeritorious.

Prior surveillance is not a prerequisite for the validity of an entrapment operation, especially when the buy-bust team is accompanied by their informant at the crime scene.<sup>15</sup> Similarly, the absence of marked money does not create a hiatus in the evidence for the prosecution provided that the prosecution has adequately proved the sale.<sup>16</sup> Also, the use of dusted money is not indispensable to prove the illegal sale of drugs, as held in *People v. Felipe*.<sup>17</sup> Neither is it necessary to present the informant as his testimony would merely be corroborative and cumulative.<sup>18</sup>

Equally untenable is appellant's final argument that the buy-bust team failed to observe the requirements of Section 21, Article II of RA 9165.

The procedure to be followed in the custody and handling of seized illegal drugs is provided in Section 21(1) of RA 9165 and Section 21(a) of its Implementing Rules and Regulations (IRR).

Section 21(1), Article II of RA 9165 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,

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<sup>15</sup> *People v. Monceda*, 721 Phil. 106, 119 (2013).

<sup>16</sup> *People v. Unisa*, 674 Phil. 89, 111 (2011).

<sup>17</sup> 663 Phil. 132, 143 (2011).

<sup>18</sup> *People v. Monceda*, supra at 119-120.

seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory 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, a representative from the media and the Department of Justice [DOJ], and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.

Its Implementing Rules and Regulations state:

*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:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory 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, a representative from the media and the Department of Justice (DOJ), and any elected public official 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, further*, that non-compliance with 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 of and custody over said items.

Contrary to the protestation of appellant, the evidence on record shows that there had been faithful compliance with the foregoing provision by the apprehending team. As borne out by the records, the seized items were duly marked as "EJ 02-20-07-1" and "EJ 02-20-07-2" by PO2 Villarete immediately upon their arrival at the PDEA Office. "Marking upon immediate confiscation" contemplates even marking at the nearest police station or office of the apprehending team.<sup>19</sup> Thereafter, a physical inventory

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<sup>19</sup> *People v. Endaya*, 739 Phil. 611, 631 (2014).



of the seized items was conducted as evidenced by the “Certificate of Inventory”<sup>20</sup> which was signed by SPO1 Cabal, media representative Domingo of GMA-7, Prosecutor Carillo, and Councilor Iso. A photograph of appellant with the seized items and inventory witnesses was likewise taken. After this, a request for laboratory examination was prepared by the buy-bust team and the items were transmitted personally by PO2 Villarete to the PNP Regional Crime Laboratory Office 7 where these were received by PO2 Fortes. After conducting an examination, Forensic Chemist Mendoza found the items positive for methamphetamine hydrochloride or *shabu*. During the trial, PO2 Villarete identified the subject items to be the same items sold by appellant to him.

*Defense of denial and alibi correctly rejected*

Appellant’s defense of denial and alibi was correctly rejected by the courts below. It has been ruled that “the defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just easily be concocted and is a common and standard defense ploy in most prosecution for violation of the Dangerous Drugs Act.”<sup>21</sup>

*Penalty*

Pursuant to Section 5, Article II of RA 9165, the illegal sale of dangerous drugs is punishable by life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10 million regardless of the quantity or purity of the drug involved.

The courts below therefore correctly imposed the penalty of life imprisonment and a fine in the amount of ₱500,000.00 on appellant since the imposition of the death penalty has been proscribed by RA 9346.<sup>22</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The July 30, 2015 Decision and the September 7, 2016 Resolution of the Court of Appeals in CA-G.R. CEB-CR HC No. 01424 are hereby **AFFIRMED**.



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<sup>20</sup> Exhibit “E”, records, p. 81.

<sup>21</sup> *People v. Akmad*, 773 Phil. 581, 591-592 (2015).

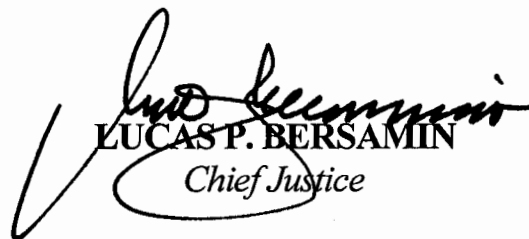
<sup>22</sup> An Act Prohibiting the Imposition of the Death Penalty in the Philippines.



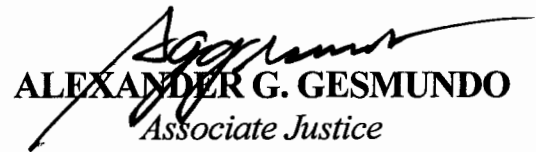
**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

  
**LUCAS P. BERSAMIN**  
*Chief Justice*

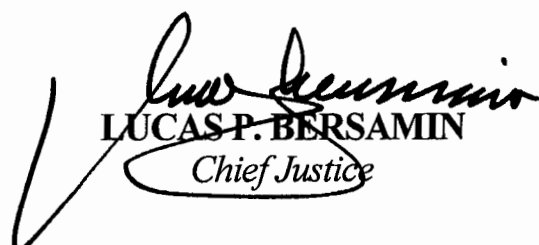
  
**ANDRES B. REYES, JR.**  
*Associate Justice*

  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**ROSMARI D. CARANDANG**  
*Associate Justice*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**LUCAS P. BERSAMIN**  
*Chief Justice*