



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 252152

Present:

LEONEN, J.,*
 HERNANDO,
 Acting Chairperson,
 INTING,
 DELOS SANTOS, and
 LOPEZ, J., JJ.

- versus -

MILA SOMIRA a.k.a. "MILA",
Accused-Appellant.

Promulgated:

June 23, 2021

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DECISION

DELOS SANTOS, J.:

Before the Court is an ordinary Appeal¹ filed by accused-appellant Mila Somira a.k.a "Mila" (Mila) assailing the Decision² dated November 29, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11948, which affirmed the Decision³ dated August 28, 2018 of the Regional Trial Court (RTC) of Pasay City, Branch 231, in Criminal Case No. R-PSY-15-10179-CR, finding Mila guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

* On official leave.

¹ *Rollo*, p. 16.

² *Id.* at 3-15; penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justices Nina G. Antonio-Valenzuela and Louis P. Acosta, concurring.

³ *CA rollo*, pp. 53-58; penned by Presiding Judge Divina Gracia Lopez Pelino.

⁴ Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES." approved on June 7, 2002.



The Facts

This case stemmed from an Information filed before the RTC accusing Mila with the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of RA 9165, the accusatory portion of which states:

That on or about the 22nd of June 2015, in Pasay City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur buyer or to another, 1099.66 grams of Methamphetamine Hydrochloride (“shabu”), a dangerous drug.

CONTRARY TO LAW.⁵

Upon arraignment, Mila pleaded not guilty to the charge against her. Subsequently, trial ensued.⁶

The prosecution presented the testimony of Agent Rosalie Sarasua (Agent Sarasua) and stipulated the testimony of Forensic Chemist Sweedy Kay Perez (Forensic Chemist Perez). On the other hand, the defense presented Mila as their sole witness. As summarized by the RTC, the details of the respective factual versions of the parties based on the evidence that they presented are as follows:

Evidence for the Prosecution

Evidence for the prosecution tends to establish that on June 22, 2015, a regular confidential informant arrived at the PDEA Office to give information regarding the illegal drug activities of a certain Mila, who was identified in open court as the accused in this case, Mila Somira a.k.a. “Mila”. The information was relayed to Agent Aldwin Pagaragan and a team was formed for the conduct of a buy bust operation. Agent Rosalie Sarasua was designated as the poseur buyer tasked to buy one (1) kilogram of shabu worth seven hundred fifty thousand pesos (Php750,000.00).

The confidential informant called the accused and introduced Agen[t] Sarasua as the buyer. As discussed over the phone conversation, delivery will take place at Gilligan’s Restaurant, located in the area of the Mall of Asia (MOA). Agent Sarasua then prepared the buy bust money, after which, the buy bust team proceeded to the target area. The team arrived at the target area around 2:45 o’clock in the afternoon. The poseur buyer and the confidential informant proceeded to Gilligan’s [R]estaurant to meet the accused. When the accused arrived at the meeting place, the confidential informant introduced Agent Sarasua as the poseur buyer. Accused asked Agent Sarasua if she had the money and the latter instead

⁵ *Rollo*, p. 4.

⁶ *Id.*

asked the accused if she could see the items first. The accused then pulled out a paper bag then gave it to Agent Sarasua. Agent Sarasua looked inside the paper bag and saw a package and x x x plastic containing white crystalline substance. Agent Sarasua then gave the accused the buy bust money. After the accused received the buy bust money, Agent Sarasua executed the pre-arranged signal and the arresting officers rushed to the place where the accused, Agent Sarasua and the confidential informant were seated. The accused tried to run but was caught by [the] arresting officers. After the arrest of the accused, Agent Sarasua recovered the buy bust money[.] [T]he accused was apprised of her constitutional rights.

The accused [resisted the] arrest and became hysterical, thus, the team leader decided to bring the accused to the PDEA Office since she was already making a scene that started to generate a crowd in the area. Upon reaching the office, an inventory of the seized evidence was conducted in the presence of the accused as well as representative[s] from the media and an elected official.

Evidence for the Defense

The Defense presented the testimony of the accused Mila Somira a.k.a. "Mila"[.] [H]er judicial affidavit marked as Exhibit "1" was offered and admitted by the court as evidence for the defense.

Defense evidence tends to establish that on June 22, 2015, the accused was [at] the seaside area of the Mall of Asia (MOA). [She] was waiting for her friend Amira when two persons, a man and a woman[,] approached [her]. The woman held the accused's hand and told her to come with them quietly and she will not be harmed. Upon hearing this, the accused was shocked and resisted, thus, she was dragged and forced to board a van. Inside the van, the accused was shown a picture of a man and was asked [about] his whereabouts. The accused replied that she did know the man but she was still asked over and over again as to the whereabouts of the man in the picture. The accused was then brought to the PDEA Office and it was there that the accused found out that the people who brought her there were PDEA agents. The accused insisted that she did know the man [or] where he could be found. This angered one of the men and they set up a camera and instructed the accused to sit, after which, they opened a bag with drugs inside and put the drugs on the table. They took pictures of the accused with the drugs and bag on the table.⁷

The RTC Ruling

In a Decision dated August 28 2018, the RTC found Mila guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165 in Crim. Case No. R-PSY-15-10179-CR, for illegal sale of *shabu* and sentenced her to suffer the penalty of life imprisonment and to pay the fine of ₱800,000.00. The dispositive portion of the assailed Decision is quoted as follows:

⁷ Id. at 4-6.

WHEREFORE, judgment is hereby rendered finding the accused, **MILA SOMIRA a.k.a. "Mila"**, *guilty beyond reasonable doubt* of the charge of Violation of Section 5, Article II of R.A. 9165 in Criminal Case No. R-PSY-15-10179-CR and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of eight hundred thousand pesos (Php800,000.00).

The Officer-in-Charge is hereby directed to transmit the samples taken from the 1099.6 grams of methamphetamine hydrochloride seized from the accused.

SO ORDERED.⁸

The RTC held that all the elements for the prosecution of sale of dangerous drugs, namely: the identity of the buyer and the seller, the object, and consideration, and the delivery of the thing sold, and the payment therefor, were established. Moreover, the prosecution has also established an unbroken chain in the custody of the evidence. In the instant case, it was Agent Sarasua who recovered the specimen from Mila and subsequently transmitted the specimen to the laboratory for examination which was duly received by Forensic Chemist Perez. Likewise, the latter brought the dangerous drug in court during trial. Agent Sarasua identified in open court the drugs as the ones subject of the buy bust operation. In view of this, the RTC ruled that the integrity of the evidence had been preserved and the identity of the *corpus delicti* had been established beyond reasonable doubt.

Moreover, Mila never imputed ill motive on the part of the witnesses who testified against her. Thus, as between the straightforward testimony of the prosecution witnesses and Mila's denial, the prosecution witnesses enjoy the presumption of regularity in the performance of their duties.

Aggrieved, Mila appealed the court a *quo*'s Decision before the CA.⁹

The CA Ruling

In her appeal before the CA, Mila imputed the following errors to the RTC, to wit:

I. THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF VIOLATION OF SECTION 5, ARTICLE II OF R.A. NO. 9165 DESPITE THE PROSECUTION'S FAILURE TO PRESENT THE ESSENTIAL ELEMENTS OF OFFER AND ACCEPTANCE IN THE SALE OF ILLEGAL DRUGS, AND DESPITE THE ILLEGAL WARRANTLESS ARREST.

⁸ CA rollo, p. 58.

⁹ Rollo, p. 8.



II. THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF VIOLATION OF SECTION 5, ARTICLE II OF R.A. NO. 9165 DESPITE THE PROSECUTION'S FAILURE TO PROVE THE INTEGRITY AND EVIDENTIARY VALUE OF THE ITEMS SEIZED, TO PROVE AN UNBROKEN CHAIN OF CUSTODY, AND TO PROVE COMPLIANCE WITH THE MANDATORY REQUIREMENTS OF SECTION 21, ARTICLE II OF R.A. NO. 9165.¹⁰

In its November 29, 2019 Decision, the CA affirmed Mila's conviction. The CA found no circumstance that would cast doubt on the identity, integrity and evidentiary value of the seized drugs. It found that the prosecution successfully established an unbroken link in the custody of the seized plastic bag of *shabu*, from the time the poseur buyer seized the drugs, to the time they were brought to the Philippine Drug Enforcement Agency (PDEA) Office, then to the crime laboratory for testing, until their presentation in evidence before the court.¹¹

The appellate court held that the presumption of regularity worked against Mila. The integrity of the evidence is presumed to be preserved unless there is a showing of bad faith, ill will or proof that the evidence has been tampered with and in such case, the burden of proof would rest on Mila. Here, Mila failed to discharge this burden. In this particular case, the presumption that official acts have been regularly performed need not even come into play because the prosecution clearly established the "chain of custody" and compliance with Section 21, Article II of RA 9165.¹²

Since the integrity and the evidentiary value of the seized drugs had been preserved, the CA, therefore, found no reason to overturn the findings of the RTC that the drugs seized from Mila were the very same ones that were presented during trial.¹³

On December 26, 2019, Mila filed an appeal before the Court.¹⁴

The Issue Before the Court

The issue for the Court's resolution is whether Mila's conviction for illegal sale of dangerous drugs should be upheld.

The Court's Ruling

This Court has painstakingly reviewed the records of this case and after a thorough deliberation, resolves to deny Mila's appeal, her guilt

¹⁰ Id.

¹¹ Id. at 13.

¹² Id. at 13-14.

¹³ Id. at 14.

¹⁴ Supra note 1.

having been proved beyond reasonable doubt. The Court finds that the prosecution was able to establish with moral certainty that the integrity and evidentiary value of the items confiscated from Mila were preserved such that they could be used as basis for Mila's conviction.

No less than the Constitution¹⁵ ordains that an accused in a criminal case be presumed innocent until otherwise proven beyond reasonable doubt. Likewise, Section 2, Rule 133¹⁶ of the Rules of Court requires proof beyond reasonable doubt to justify a conviction; anything less than that entitles the accused to an acquittal.¹⁷

Mila was arrested during a buy-bust operation where she was caught *in flagrante delicto* selling *shabu*. When an arrest is made during a buy-bust operation, it is not required that a warrant be secured in line with the provisions of Section 5(a), Rule 113 of the Rules of Court allowing warrantless arrests, to wit:

Section 5. Arrest without warrant; when lawful. – A peace officer or a private person may, without a warrant, arrest a person:

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

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As a general rule, a buy-bust operation, considered as a form of entrapment, is a valid means of arresting violators of RA 9165. It is an effective way of apprehending law offenders in the act of committing a crime. In a buy-bust operation, the idea to commit a crime originates from the offender, without anybody inducing or prodding him to commit the offense.¹⁸ If carried out with due regard for constitutional and legal safeguards, a buy-bust operation, such as the one involved in this case, deserves judicial sanction. As aptly observed by the CA, the warrantless arrest conducted on the person of Mila was allowed under the circumstances.

Significantly, Mila was charged with the crime of Illegal Sale of Dangerous Drugs on June 22, 2015, defined and penalized under Section 5, Article II of RA 9165, to wit:

¹⁵ Section 14(2), Article III of the 1987 Constitution.

¹⁶ Section 2. *Proof beyond reasonable doubt*. — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

¹⁷ *People v. Enriquez*, 718 Phil. 352, 360 (2013).

¹⁸ *People v. Bartolome*, 703 Phil. 148, 161 (2013).

Section 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.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) 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 controlled precursor and essential chemical, or shall act as a broker in such transactions.

In this regard, it is essential that the identity of the prohibited drug be established beyond reasonable doubt. In order to obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody of the items seized. It must be able to account for each link in the chain of custody of dangerous drug from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.¹⁹ The Dangerous Drugs Board (DDB) has expressly defined chain of custody involving dangerous drugs and other substances in the following terms in Section 1 (b) of DDB Regulation No. 1, Series of 2002:

b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

In relation to this, RA 10640²⁰ was passed on July 15, 2014, amending Section 21, Article II of RA 9165. Consequently, the said provision pertinently provides the following:

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

¹⁹ *Goromeo v. People*, 811 Phil. 844, 856 (2017), citing *People v. Viterbo*, 739 Phil. 593, 601 (2014).

²⁰ 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."

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.

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(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, 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:

Simply put, as part of the chain of custody procedure, the apprehending team is mandated, immediately after seizure and confiscation, to conduct a physical inventory and to photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640, a representative from the media AND the Department of Justice (DOJ), AND any elected public official;²¹ or (b) if after the amendment of RA 9165 by RA 10640²² an elected public official AND a representative of the National Prosecution

²¹ See Section 21 (1), Article II of RA 9165 and its Implementing Rules and Regulations.

²² As the Court noted in *People v. Gutierrez* (G.R. No. 236304, November 5, 2018), RA 10640 which was approved on July 15, 2014, states that it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” Accordingly, a copy of the law was published on July 23, 2014 in the respective issues of “The Philippine Star” (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and the “Manila Bulletin” (Vol. 499, No. 23, World News section, p. 6); hence, RA 10640 became effective on August 7, 2014. (See also *People v. Santos*, G.R. No. 243627, November 27, 2019).

Service²³ OR the media.²⁴ The presence of these witnesses safeguards the establishment of the chain of custody and removes any suspicion of switching, planting, or contamination of evidence.

Likewise, Our ruling in *People v. Gutierrez*²⁵ on the chain of custody rule is instructive, viz.:

As a mode of authenticating evidence, the chain of custody rule requires the presentation of the seized prohibited drugs as an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. This would ideally cover the testimony about every link in the chain, from seizure of the prohibited drug up to the time it is offered in evidence, in such a way that everyone who touched the exhibit would describe how and from whom it was received, to include, as much as possible, a description of the condition in which it was delivered to the next in the chain.

From the foregoing, the following are the links that must be established in the chain of custody in a buy-bust situation:

First, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer;

Second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer;

Third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and

Fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.²⁶

While non-compliance with the prescribed procedural requirements will not automatically render the seizure and custody of the items void and invalid, this is true only when “(i) there is a justifiable ground for such non-compliance, and (ii) the integrity and evidentiary value of the seized items are properly preserved.”²⁷ Thus, any divergence from the prescribed

²³ Which falls under the DOJ. (See Section 1 of PD 1275, entitled “REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE AND THE OFFICES OF THE PROVINCIAL AND CITY FISCALS, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE” (April 11, 1978) and Section 3 of RA 10071, entitled “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE,” otherwise known as the “PROSECUTION SERVICE ACT OF 2010” (lapsed into law on April 8, 2010).)

²⁴ See Section 21 (1), Article II of RA 9 165, as amended by RA 10640.

²⁵ 622 Phil. 396 (2009).

²⁶ *People v. Magpayo*, 648 Phil. 641, 650 (2010).

²⁷ *People v. Martinez*, 652 Phil. 347, 372 (2010).



procedure must be justified and should not affect the integrity and evidentiary value of the confiscated contraband. Absent any of the said conditions, the non-compliance is an irregularity, a red flag, that casts reasonable doubt on the identity of the *corpus delicti*.

The first crucial link is the chain of custody which starts with the seizure from Mila of the dangerous drugs and its subsequent marking. Under the law, such marking should have been done immediately after confiscation and in the presence of the accused or his representative, 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. After a thorough review of the records, this Court finds that this has been complied with.

As culled from the assailed Decision of the CA, after recovering the plastic bag of *shabu* from Mila, the buy-bust team decided to conduct the marking and inventory at the PDEA Office to avoid any commotion since Mila was then already hysterical. Upon arrival at the PDEA Office, Agent Sarausa marked the seized item, "EXH A-2 RGS 6/22/15" with her signature. Furthermore, the inventory of the seized item was conducted in the presence of Brgy. Kagawad Maritess Palma of Brgy. Pinyahan, Quezon City and Alex Mendoza of Hataw media. After the inventory, Agent Sarausa brought the seized item to Forensic Chemist Perez to determine the presence of dangerous drugs. Forensic Chemist Perez conducted an examination of the specimen, the results of which showed that the seized item contained methamphetamine hydrochloride or *shabu*, a dangerous drug.

Emphasizing the importance of this first link, this Court in *People v. Zakaria*,²⁸ pronounced:

Crucial in proving the chain of custody is the marking of the seized dangerous drugs or other related items immediately after they are seized from the accused. for the marking upon seizure is the starting point in the custodial link that succeeding handlers of the evidence will use as reference point. Moreover, the value of marking of the evidence is to separate the marked evidence from the corpus of all other similar or related evidence from the time of seizure from the accused until disposition at the end of criminal proceedings. obviating switching, "planting" or contamination of evidence. A failure to mark at the time of taking of initial custody imperils the integrity of the chain of custody that the law requires.²⁹

In this case, the Court finds that the PDEA operatives committed justified deviations from the prescribed chain of custody rule, thereby

²⁸ 699 Phil. 367 (2012).

²⁹ Id. at 380-381.

preserving the integrity and evidentiary value of the items purportedly seized from Mila. As can be gainsaid, the buy-bust team decided to conduct the marking and inventory at the PDEA Office to avoid any commotion since Mila was hysterical, let alone that the buy-bust operation was conducted in a shopping mall where dozens of people are around. During trial, Agent Sarasua testified:

[Prosecutor Michael A. Vito Cruz]

Q: So you mean to say, Madam Witness that @Mila turned out to be too hysterical during the arrest?

[Agent Sarasua]

A: Yes, sir.

Q: And after the said arrest of the accused Mila, what happened next in relation to this Republic Act 9165?

A: I recovered the money sir[,] the bag of boodle money from the floor or the pavement while she was being arrested and apprised of her constitutional rights by the Arresting Officers.

Q: And since this @Mila is so hysterical and resisting the arrest being conducted by Agent Allosado and you are in a place, a public place wherein there are so many people around, did (sic) it catch (sic) the attention of the crowd?

A: Yes, sir we generated a crowd from the mall goers.

Q: And what is your action when there are some crowd of onlookers in your area wherein you conducted the said operation?

A: The team leader decided to bring her to [the] PDEA-RO1 office, sir.

Q: And where is that PDEA-RO1 office located?

A: In Quezon City, sir.

Q: Is it the same office wherein the National Headquarters is located?

A: Yes, sir inside the camp.

Q: So you mean to say that the inventory was not conducted in the place where the buy-bust operation was made?

A: Yes, sir it was impossible to conduct the inventory because @Mila didn't (sic) want to stop struggling when she was arrested.

Q: And during the said inventory that was conducted in your office, were (sic) there any members of the media, prosecution office or even an (sic) elected official present to witness the said inventory in accordance with Republic Act 9165.

A: Yes, sir we have witnesses, representative[s] from the media and the barangay but my other members secure[d] the presence of the DOJ representative from Quezon City but there was no available night duty Prosecutor.

Q: And after the said inventory, did you recall any incident that transpired in relation to this case?

A: Yes, sir before the inventory, I conducted the markings of the evidence.

Q: And what are those (sic) markings all about, Madam Witness?

A: I put on my markings on the recovered evidence, my initials.⁵⁰

Indubitably, the requirement under Section 21, Article II of RA 9165, as amended by RA 10640, that the marking and inventory be performed 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, 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, was satisfied. Needless to stress, the quantity of drugs involved in this case is not miniscule as to easily facilitate “planting” or switching.

As for the second and third links in the chain of custody, records show that while Agent Sarasua, who is the apprehending officer, did not turn-over the seized item to the investigating officer, it was, however, established that she took sole custody of the seized item until she personally delivered the same to Forensic Chemist Perez. Agent Sarasua testified on trial, to wit:

[Prosecutor Michael A. Vito Cruz]

Q: And aside from that, to prove that you indeed turn[ed] over the said items to the Investigator of the case and later was transferred for chemistry analysis?

[Agent Sarasua]

A: We have no Chain of Custody Form in the PDEA, we only have the Acknowledgment Receipt during the turn over to the chemist.

Q: Do you have any copy of that?

A: Yes, sir.

Q: Your Honor the witness is presenting an Acknowledgment Receipt No. 1764 dated 06/22/15 which states, I received from Agent Rosalie G. Sarasua, IO1, PDEA RO-NCR and received by Sweedy Kay L. Perez, the signature of the forensic chemist report with the (sic) chemist representative and with your conformity, Rosalie G. Sarasua, IO1. Your Honor please we would like to request that the said Acknowledgment Receipt No. 1764 be marked as Exhibit “S” for the prosecution.

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Q: Did you make any request letter?

A: Yes, sir.

⁵⁰ TSN, May 12, 2016, pp. 15-16.



- Q: And do you have with you a copy of the said request letter?
A: I have a copy in (sic) my folder, this is the request letter and this is the signature of the forensic chemist.
- Q: For the record, Madam Witness[,] when was the time that you delivered (sic) the said document memorandum to the laboratory service for the chemistry analysis of the drugs that you recovered?
A: It was around 9:30 in the evening, sir.
- Q: And who received the same, Madam Witness?
A: The duty forensic chemist, Sweedy Kay Perez, sir.³¹

From the foregoing, the seized item did not change hands until its delivery to Forensic Chemist Perez. Thus, the court a *quo*'s ruling, which was thereafter upheld by the appellate court, is proper.

Anent the fourth link, during the hearing on May 12, 2016, it was Forensic Chemist Perez who turned over to the trial court the subject specimen. Thereafter, Agent Sarasua positively identified the said specimen to be the same illegal drugs seized from Mila. The Court, thus, finds no circumstance whatsoever that would cast any doubt that the fourth link was not satisfied.

Following the provisions of Section 5, Article II of RA 9165, the illegal sale of prohibited or regulated drugs is penalized with life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10,000,000.00. However, it shall be duly noted that the statute, in prescribing the range of penalties imposable, does not concern itself with the amount of dangerous drug sold by an accused.³²

Applying the foregoing provisions of RA 9165, the penalty imposed by the RTC, as affirmed by the CA, is proper. There being no mitigating or aggravating circumstance/s attending Mila's violation of the law, the penalty to be imposed is life imprisonment. Considering that the weight of the *shabu* confiscated from Mila is 1099.6 grams, the amount of ₱800,000.00 imposed by the court a *quo*, being in accordance with law and upheld by the appellate court, is similarly sustained by the Court.

WHEREFORE, the Appeal is **DISMISSED**. The November 29, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11948, affirming the August 28, 2018 Decision of the Regional Trial Court of Pasay City, Branch 231, in Criminal Case No. R-PSY-15-10179-CR, finding accused-appellant Mila Somira a.k.a. "Mila," guilty beyond reasonable doubt of selling 1099.6 grams of methamphetamine hydrochloride or *shabu*,

³¹ Id. at 2.

³² See *People v. Ventura*, 619 Phil. 536, 556 (2000).

a prohibited drug, in violation of Section 5, Article II of Republic Act No. 9165, as amended by Republic Act No. 10640, and imposing upon her the penalty of life imprisonment and a fine of ₱800,000.00, is hereby **AFFIRMED**.

In the service of her sentence, accused-appellant Mila Somira, who is a detention prisoner, shall be credited with the entire period during which she has undergone preventive imprisonment.

SO ORDERED.



EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:

(On Official Leave)
MARVIC MARIO VICTOR F. LEONEN
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


JHOSEP R. LOPEZ
Associate Justice

ATTESTATION

I attest 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.


RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, 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.


ALEXANDER G. GESMUNDO
Chief Justice