



Republic of the Philippines  
Supreme Court  
Bacolod City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 258328

*Plaintiff-Appellee*, Present:

GESMUNDO, C.J., *Chairperson*,  
HERNANDO,  
ZALAMEDA,  
ROSARIO, and  
MARQUEZ,\* JJ.

- versus -

JOSE VASTINE Y GIBSON @ Promulgated:  
JIMMY,

*Accused-Appellant.* NOV 29 2022

X-----X

DECISION

ZALAMEDA, J.:

The Court has always been confronted with the delicate duty of balancing the enforcement of the laws against dangerous drugs, and the protection of liberties in the implementation thereof. Much has been said about the chain of custody rule which is intended to ensure that the identity and integrity of the evidence seized are properly preserved. This rule, however, should not be considered a hindrance in the enforcement of these laws especially if minor deviations thereto are justified and excused under the circumstances availing in a given case.

\* On official business.

### The Case

This appeal<sup>1</sup> seeks the reversal of the Decision<sup>2</sup> dated 15 July 2020 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12043. The CA affirmed with modification the Judgment<sup>3</sup> dated 07 August 2018 of Branch 267, Regional Trial Court (RTC) of Taguig City in Criminal Case Nos. 17634-D-TG, 17635-D-TG, 17636-D-TG and 17637-D-TG, finding accused-appellant Jose Vastine y Gibson (accused-appellant) guilty beyond reasonable doubt of Illegal Sale and Illegal Use of Dangerous Drugs, and accused Albert Joaquin Ong y Bugtas @ Albert (Ong) guilty beyond reasonable doubt of two counts of Illegal Use of Dangerous Drugs.

### Antecedents

Accused-appellant, Ong, and Edilberto Ty y Tapon @ Edilberto (Ty) were charged with violation of Section 5, in relation to Sec. 26(5), Article II of Republic Act No. (RA) 9165,<sup>4</sup> in an Information, the accusatory portion of which reads:

Criminal Case No. 17637-D-TG

That, on or about [the] 1st day of August 2011, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with one another, not being authorized by law to sell and dispose of any dangerous drugs, did then and there willfully, unlawfully, knowingly, deliver and give away to one PO3 ERNESTO A. MABANGLO, one (1) white plastic containing two (2) bricks of suspected of cocaine, with a total combined weight of 2001.71 grams, wrapped in a brown packaging tape, which after the corresponding laboratory examination conducted thereon by the PNP Crime Laboratory, gave positive results to the test for Cocaine, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.<sup>5</sup>

Accused-appellant and Ong were also charged with one count and two counts of violation of Sec. 15, Art. II of RA 9165, respectively, in three

<sup>1</sup> *Rollo*, pp. 3-5.

<sup>2</sup> *Id.* at 8-35; penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Pedro E. Corales and Alfredo D. Ampuan.

<sup>3</sup> *Id.* at 37-63; penned by Judge Antonio M. Olivete.

<sup>4</sup> 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: 07 June 2002.

<sup>5</sup> *Rollo*, pp. 38-39.

separate Informations,<sup>6</sup> the accusatory portion of which reads:

Criminal Case No. 17636-D-TG

That, on or about the [sic] 1 August 2011, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, arrested during the buy-bust operation, without having been authorized by law, did, then and there, knowingly, willfully, unlawfully and feloniously use or in any manner introduce into the physiological system of his body, THC-metabolites, otherwise known as "marijuana", a dangerous drug.

CONTRARY TO LAW.<sup>7</sup>

Criminal Case No. 17634-D-TG

That, on or about [sic] 1 August 2011, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, arrested during the buy-bust operation, without having been authorized by law, did, then and there, knowingly, willfully, unlawfully and feloniously use or in any manner introduce into the physiological system of his body, THC-metabolites, otherwise known as "marijuana", a dangerous drug.

CONTRARY TO LAW.<sup>8</sup>

Criminal Case No. 17635-D-TG

That, on or about 1 August 2011, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, arrested during the buy-bust operation, without having been authorized by law, did, then and there, knowingly, willfully, unlawfully and feloniously use or in any manner introduce into the physiological system of his body, methamphetamine, a dangerous drug.

CONTRARY TO LAW.<sup>9</sup>

Upon arraignment, accused-appellant, Ong, and Ty pleaded not guilty to their respective charges. After termination of pre-trial, trial on the merits ensued.<sup>10</sup> Ong filed a petition for bail, which was granted by the RTC on 09 January 2013.<sup>11</sup>

<sup>6</sup> Id. at 39-40.

<sup>7</sup> Id. at 40.

<sup>8</sup> Id. at 39.

<sup>9</sup> Id. at 39-40.

<sup>10</sup> Id. at 12.

<sup>11</sup> Id.

### Version of the Prosecution

In the early part of July 2011, a confidential informant (CI) gave the Chief of the Anti-Illegal Drug Special Operation Task Force (AIDSOTF) at Camp Crame, information on the illegal drug trade activities of a certain Jimmy, later identified as accused-appellant, an African-American. Accused-appellant supposedly offered to sell drugs to the CI. Based on said information, Police Chief Inspector Arnulfo Ibañez (PCI Ibañez),<sup>12</sup> together with Police Officer 3 Ernesto Mabanglo (PO3 Mabanglo), were directed to verify and investigate. They went to a club in Olongapo City for this purpose. However, they were not able to confirm the presence of accused-appellant in the area.

On 31 July 2011, the AIDSOTF received another piece of information from a reporter of ABS-CBN that accused-appellant was indeed engaged in illegal drug trade activities. Thereafter, a buy-bust team was formed to entrap accused-appellant on the morning of 01 August 2011.<sup>13</sup>

PCI Ibañez designated PO3 Mabanglo as poseur buyer to buy two kilos of cocaine worth ₱800,000.00. He was provided with buy-bust money consisting of three ₱500.00 bills bundled separately with boodle (make-believe) money. Senior Police Officer 1 Enrico Calva (SPO1 Calva)<sup>14</sup> was designated as investigator, evidence custodian, and recorder, with the rest of the team as back-up/arresting officers. The CI, meanwhile, was in constant communication with accused-appellant. They agreed to meet at the Market! Market! Mall, in Taguig between 9:30 and 10:00 p.m.<sup>15</sup>

After their final coordination meeting, the team left on board four separate vehicles, while PO3 Mabanglo rode with the CI in the latter's vehicle. Upon arrival at the area, the CI spotted a dark gray Mitsubishi Lancer sedan with accused-appellant at the wheel. PO3 Mabanglo and the CI then proceeded to where accused-appellant's vehicle was parked. The CI introduced PO3 Mabanglo as his friend who wanted to buy two kilos of cocaine. Accused-appellant immediately asked for the money. PO3 Mabanglo left to get the money, came back, and sat at the front passenger side of accused-appellant's car. PO3 Mabanglo noticed two individuals seated at the back of the car, whom he later identified as Ong and Ty.<sup>16</sup>

Accused-appellant again asked for the money, but PO3 Mabanglo said that he wanted to check the merchandise first. At that point, accused-

<sup>12</sup> Also referred to as PCI Ibanez in some parts of the records.

<sup>13</sup> *Rollo*, pp. 12-13.

<sup>14</sup> Also referred to as PO2/PO3 Calva in some parts of the records.

<sup>15</sup> *Rollo*, pp. 13-14.

<sup>16</sup> *Id.* at 14.

appellant directed Ong and Ty to hand over a plastic bag to PO3 Mabanglo. Upon receiving the same, PO3 Mabanglo opened it and saw two bricks of the merchandise, wrapped in brown packaging tape. In exchange, PO3 Mabanglo handed the buy-bust money kept in a brown envelope. He then made the pre-arranged signal to Police Officer 3 Michael Angelo Salmingo (PO3 Salmingo), prompting the rest of the team to rush in. PO3 Mabanglo announced himself as police officer, handcuffed accused-appellant, and informed him of his rights. As Ong tried to leave the vehicle, PO3 Salmingo arrested him and informed him of his rights. Police Officer 3 Dante Aquino (PO3 Aquino), on the other hand, arrested Ty.<sup>17</sup>

PO3 Mabanglo marked the seized drugs with his initials and the date of seizure, "EAM-08/01/2011." SPO1 Calva secured the seized drugs from PO3 Mabanglo and placed the seized drugs on the hood of accused-appellant's vehicle. SPO1 Calva then conducted inventory in the presence of accused-appellant, Ong, Ty, the buy-bust team. Also there to witness the proceedings were Jacque Manabat (Manabat) of ABS-CBN; *Kagawad* Artemio G. Omana (*Kagawad* Omana) and *Barangay Tanod* Juanito Brioso (*Barangay Tanod* Brioso), both of *Barangay* Fort Bonifacio, Taguig City; and John Infañte, security guard at the Market! Market! Mall parking lot. The prosecution explained that there was a delay in the inventory caused by efforts of the police to secure the presence of a Department of Justice (DOJ) representative, yet no representative from the department arrived.<sup>18</sup>

SPO1 Calva brought the seized drugs, together with accused-appellant, Ong, and Ty, to the crime laboratory for examination.<sup>19</sup> After conducting the examination, forensic chemist, Police Chief Inspector Jocelyn Belen Julian (PCI Julian) reported that the seized items, with a combined weight of 2,000.71 grams, tested positive for cocaine. The urine test administered on accused-appellant came out positive on the presence of *marijuana*. Ong tested positive for the use of both *shabu* and *marijuana*, while Ty tested negative to the use of any kind of drug.<sup>20</sup>

#### Version of the Defense

Accused-appellant's version of the events, as culled from his brief, is as follows:

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<sup>17</sup> Id. at 15.

<sup>18</sup> Id.

<sup>19</sup> Id. at 59.

<sup>20</sup> Id. at 15-16.

9. At around 1:00 o'clock in the afternoon of August 1, 2011, accused JOSE VASTINE ("Vastine") was in his house in Pampanga when he received a phone call from his friend, Cris Matthews ("Cris"), saying that police officers were extorting Three Hundred Thousand Pesos (Php 300,000.00) from the latter. Vastine said that he could lend One Hundred Thousand Pesos (Php100,000.00) only. Thereafter, Vastine asked his wife if she wanted to accompany him in giving the money to Cris in Market! Market! at the Taguig Global Fort. His wife declined so Vastine went alone. When he arrived at around 6:00 o'clock in the evening, he parked at the basement department and texted Cris to inform the latter that he was already at their meeting place. Cris told him to hold on as he will be there in a minute, to which Vastine agreed.

10. After five (5) to ten (10) minutes, Cris arrived on board a vehicle driven by another person, rolled his window down, and told Vastine to follow him. The latter followed and entered inside the car of Cris, who asked if he had the money. Thus, Vastine gave the One Hundred Thousand Pesos (Php 100,000.00). When Vastine went out of the vehicle, two (2) guys behind him, who were in civilian clothes, grabbed him. Vastine asked "who are you", but he was pinned and handcuffed. The unknown persons then introduced themselves as police officer[s]. Thereafter, he was made to board a black Mitsubishi Montero.

11. Inside the Montero, the police officers asked for Five Hundred Thousand Pesos (Php 500,000.00) in exchange for his freedom. When he said that he did not have such amount, the police officers prodded him to call anyone who might have the money. However, he said that he will not give the money because he did not do anything. Later, he called his wife who asked where he was, and to which he answered '*parking lot.*' Further, his wallet containing Sixty-Five Thousand Pesos (Php65,000.00) and his ATM went missing. It was only when he was brought to Camp Crame where he learned that he was being charged with violation of Section 5.<sup>21</sup>

### Ruling of the RTC

On 07 August 2018, the RTC rendered its Judgment, the dispositive portion of which reads:

**WHEREFORE**, based on the foregoing dissertation of the Court, the Court finds accused **Jose Vastine y Gibson, Edilberto Ty y Tapon and Albert Joaquin Ong y Bugtas** **GUILTY** beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165 under **Criminal Case No. 17637-D-TG** and judgment is hereby rendered that they should suffer the penalty of **Life Imprisonment** and to pay **Fine** in the amount of Five Hundred Thousand Pesos (Php500,000.00). Likewise, accused **Albert Joaquin Ong y Bugtas and Jose Vastine y Gibson** are found

<sup>21</sup> CA rollo, p. 236.

**GUILTY** beyond reasonable doubt for violation of Section 15, Article II of Republic Act No. 9165 under **Criminal Case No. 17634-36-D-TG** and judgment is hereby rendered that they should undergo drug rehabilitation for a minimum period of six (6) months in a government center as required by law.

x x x x.

SO ORDERED.<sup>22</sup>

The RTC found that the prosecution established beyond reasonable doubt the illegal sale of dangerous drugs by accused-appellant, Ong, and Ty, as well as the illegal use of dangerous drugs by accused-appellant and Ong.<sup>23</sup> It also found that the identity of the illegal drugs was adequately established through its unbroken chain of custody.<sup>24</sup> The RTC disregarded the defense of denial and *alibi* proffered by accused-appellant, Ong, and Ty, which were unsubstantiated with clear and convincing evidence.<sup>25</sup>

Aggrieved, accused-appellant, Ong, and Ty appealed<sup>26</sup> to the CA.

### Ruling of the CA

In its Decision dated 15 July 2020, the CA sustained accused-appellant's conviction for Illegal Sale of Dangerous Drugs, but acquitted Ong and Ty on the ground that prosecution's failure to show their unmistakable involvement beyond reasonable doubt in the illegal sale of cocaine.<sup>27</sup> Thus, the CA ruled:

**WHEREFORE**, the appeal of accused-appellant Jose G. Vastine a.k.a. "Jimmy" is **DENIED**. The judgments of conviction against him pursuant to the charges under sections 5 and 15 of RA 9165 as amended, are **AFFIRMED** with **MODIFICATION as to the fine, ordering accused-appellant Jose G. Vastine a.k.a. "Jimmy" to pay Five Million Pesos (P5,000,000.00) instead.**

The appeals of accused-appellants Albert Joaquin B. Ong and Edilberto T. Ty are **GRANTED**. The Judgment dated 07 August 2018, in so far as it found accused-appellants Albert Joaquin B. Ong and Edilberto T. Ty guilty of the charge under section 5, Article II of RA No. 9165, is **REVERSED** and **SET ASIDE**. Consequently, the accused-appellants Albert Joaquin B. Ong and Edilberto T. Ty are **ACQUITTED** of the said

<sup>22</sup> *Rollo*, p. 63.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 57-58.

<sup>25</sup> *Id.* at 62.

<sup>26</sup> *CA rollo*, pp. 16-17, 19-20, 22.

<sup>27</sup> *Id.* at 26.

crime and their immediate **RELEASE** from custody, [sic] hereby ordered, unless they be held for some other lawful cause.

The trial court's disposition with respect to the charges against the accused-appellant's Jose G. Vastine a.k.a. "Jimmy," and Albert Joaquin B. Ong, for illegal use of dangerous drugs, directing their mandatory rehabilitation, is maintained.

**IT IS SO ORDERED.**<sup>28</sup>

The CA held that the prosecution duly established all the elements of the Illegal Sale of Dangerous Drugs by accused-appellant. It also held that the chain of custody proved to be unbroken. The integrity and evidentiary value of the cocaine bricks seized from accused-appellant had been preserved because the police officers took all the necessary measures to handle the evidence as required by the law and rules.<sup>29</sup> The CA also sustained accused-appellant and Ong's conviction for Illegal Use of Dangerous Drugs as established through the initial and confirmatory tests conducted by the PCI Julian.<sup>30</sup>

Hence, this appeal.

**Issue**

The sole issue in this case is whether the CA correctly affirmed accused-appellant's conviction for Illegal Sale and Illegal Use of Dangerous Drugs punishable under Sec. 5 and 15, Art. II of RA 9165.

**Ruling of the Court**

The appeal is without merit.

*The elements of the crimes charged against accused-appellant have been duly proven*

In actions involving the Illegal Sale of Dangerous Drugs, the

<sup>28</sup> *Rollo*, pp. 34-35.

<sup>29</sup> *Id.* at 29-30, 32.

<sup>30</sup> *Id.* at 33.



following elements must first be established: (1) proof that the transaction took place; and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence. To prove that a sale transaction had taken place, the following elements must be proved: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment.<sup>31</sup> What is material 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>32</sup>

In Criminal Case No. 17637-D-TG, the prosecution indubitably proved the guilt of the accused-appellant for illegal sale of cocaine. Accused-appellant was caught *in flagrante* selling cocaine to PO3 Mabanglo during a legitimate buy-bust operation. PO3 Mabanglo positively identified accused-appellant as the one who demanded payment for the cocaine bricks and who received the envelope containing the buy bust money.<sup>33</sup> The sale was consummated after the exchange of buy-bust money and *cocaine* between PO3 Mabanglo and accused-appellant.

We likewise affirm accused-appellant's guilt for illegal use of marijuana in Criminal Case No. 17636-D-TG, which is amply supported by the findings of the initial and confirmatory test conducted by PCI Julian.<sup>34</sup> Thus, accused-appellant was also properly convicted under Sec. 15, Art. II of RA 9165.

*The chain of custody was duly established in this case; the lack of a witness from the Department of Justice was justified under the circumstances of this case*

The Court upholds the common findings of the RTC and CA that there was compliance with Sec. 21, Art. II of RA 9165, as to the preservation and disposition of the seized cocaine, as well as the chain of custody requirements.

Sec. 21, Art. II of RA 9165, the applicable law at the time of the commission of the offenses,<sup>35</sup> requires, among others, that the marking,

<sup>31</sup> *People v. Tumalak*, 791 Phil 148, 155 (2016).

<sup>32</sup> *People v. Amaro*, 786 Phil 139, 147 (2016).

<sup>33</sup> *Rollo*, p. 22.

<sup>34</sup> *Id.* at 33.

<sup>35</sup> The Information alleged that the offenses were committed on 01 August 2011.

physical inventory, and photograph-taking of the seized items be conducted immediately after the seizure and confiscation of the same.

After the turnover of the seized drugs by PO3 Mabanglo to SPO1 Calva, the latter was in sole custody of the same until he brought them to the crime laboratory.<sup>36</sup> PCI Julian then conducted the laboratory examination on the seized drug and sealed it until the same was presented in court.<sup>37</sup>

Accused-appellant points out that the police officers failed to comply with Sec. 21, Art. II of RA 9165, specifically as to their failure to adduce a justifiable reason for the absence of a representative from the DOJ.<sup>38</sup>

Section 21 further requires that the physical inventory and photograph-taking be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as these required witnesses: (a) if **prior** to the amendment of RA 9165 by RA 10640 on 07 August 2014, “a representative from the media AND the Department of Justice (DOJ), and any elected public official;” or (b) if **after** said amendment, “[an] elected public official and a representative of the National Prosecution Service OR the media.”<sup>39</sup>

Since the incident subject of this case happened on 01 August 2011, the applicable law requires a representative from the media **and** the DOJ, as well as any elected public official. While the general rule requires that all these witnesses are required to establish the chain of custody, this rule is not inflexible as it admits exceptions. It bears stressing that field conditions vary and strict compliance with the rule may not always be possible.

Sec. 21 of the Implementing Rules and Regulations of RA 9165 provides a saving clause which applies where the prosecution recognized the procedural lapses, and thereafter explained the cited justifiable grounds, and when the prosecution established that the integrity and evidentiary value of the evidence seized had been preserved.<sup>40</sup>

In *Tolentino v. People*,<sup>41</sup> the Court reiterated that failure to satisfy the requirements under Sec. 21, Art. II of RA 9165 must be strictly premised on “justifiable grounds.” The Court also enumerated certain instances when the absence of the required witnesses may be justified by citing *People v.*

<sup>36</sup> *Rollo*, pp. 58-59.

<sup>37</sup> *Id.* at 31-32.

<sup>38</sup> *CA rollo*, pp. 248-250.

<sup>39</sup> *People v. Bangalan*, 839 Phil 455, 461 (2018).

<sup>40</sup> *People v. Tumalak*, 791 Phil 148, 160 (2016).

<sup>41</sup> G.R. No. 227217, 12 February 2020.

*Reyes*,<sup>42</sup> and *People v. Sipin*,<sup>43</sup> thus:

In *People v. Reyes*, the Court enumerated certain instances when absence of the required witnesses may be justified, viz.:

It must be emphasized that the prosecution must be able to prove a justifiable ground in omitting certain requirements provided in Sec. 21 such as, but not limited to the following: (1) media representatives are not available at that time or that the police operatives had no time to alert the media due to the immediacy of the operation they were about to undertake, especially if it is done in more remote areas; (2) **the police operatives, with the same reason, failed to find an available representative of the National Prosecution Service**; (3) the police officers, due to time constraints brought about by the urgency of the operation to be undertaken and in order to comply with the provisions of Article 125 of the Revised Penal Code in the timely delivery of prisoners, were not able to comply with all the requisites set forth in Section 21 of R.A. [No.] 9165. (Citation omitted)

The above-ruling was again reiterated by the Court in *People v. Sipin* where it provided additional grounds that would serve as valid justification for the relaxation of the rule on mandatory witnesses, viz.:

The prosecution never alleged and proved that the presence of the required witnesses was not obtained for any of the following reasons, such as: (1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) **earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.** (Citation omitted; emphasis supplied)

In this case, the police officers recognized the absence of a representative from the DOJ, and provided the explanation that despite

<sup>42</sup> 830 Phil. 619 (2018).

<sup>43</sup> 833 Phil. 67 (2018).

earnest efforts, they failed to secure the latter's presence.<sup>44</sup> Moreover, this Court recognizes the time-sensitive nature of the buy-bust operation in this case. The information about the transaction was known on 31 July 2011, and the buy-bust operation was conducted on 01 August 2011.

In this line, it should be considered that the presence of the witnesses from the DOJ, media, and from public elective office was intended to protect against the possibility of planting, contamination, or loss of the seized drug.<sup>45</sup> Apart from the absence of a witness from the DOJ, the prosecution established the requirements of the chain of custody rule with the presence of the other two insulating witnesses required under Sec. 21.

It is also notable that the seized drugs in this case consist of 2,000.71 grams or more than two kilos of cocaine. The sheer amount of dangerous drugs lessens the possibility of tampering and planting of evidence. As held in *People v. Lung Wai Tang*,<sup>46</sup> the large quantity of drugs seized reduces, if not eradicates, the possibility of planting or tampering with evidence, thus:

Strict adherence to the procedural safeguards is required where the quantity of illegal drugs seized is small, since it is highly susceptible to planting, tampering, or alteration of evidence. On the other hand, large amounts of seized drugs are not as easily planted, tampered, or manipulated. Here, the considerable quantity of shabu consisting of almost eight (8) kilograms provides strong probative value favoring the prosecution's version of events.<sup>47</sup> (Citations omitted)

Accordingly, the Court is convinced that the integrity and evidentiary value of the seized drugs were preserved from the time of seizure, until the same were presented in court.

*The defenses of denial and frame-up  
were not established in this case*

Accused-appellant also claims that the evidence was merely planted by the arresting officers for a bogus entrapment. The sinister motive of the arresting officers was allegedly exhibited when they tried to extort from him the amount of ₱500,000.00. There can therefore be no presumption of regularity in the performance of their duties.<sup>48</sup>

The allegations of a bogus entrapment and extortion have no leg to

<sup>44</sup> *Rollo*, p. 30.

<sup>45</sup> *People v. Tomawis*, 830 Phil. 385, 408-409 (2018).

<sup>46</sup> G.R. No. 238517, 27 November 2019.

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

<sup>48</sup> *Id.* at 68-69.




stand on. As the RTC ruled, allegations of frame-up and extortion are common and standard defenses in drug cases. To substantiate such defenses, the evidence must be clear and convincing. In this case, accused-appellant failed to adduce evidence to support his claim.<sup>49</sup> Moreover, as previously stated, the sheer amount of seized drugs consisting of 2,000.71 grams makes the claim for frame-up difficult to believe.

It is settled that factual findings of the appellate court, affirming those of the trial court, are binding on this Court, unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness, or palpable error, which accused-appellant failed to establish in this case.<sup>50</sup> The Court, therefore, sees no reason to disturb their common findings.

All the foregoing considered, the Court affirms the conviction of accused-appellant for violation of Secs. 5 and 15, Art. II of RA 9165. The Court likewise affirms the penalties imposed by the CA for being in accordance with the law.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated 15 July 2020 of the Court of Appeals in CA-G.R. CR-HC No. 12043 is **AFFIRMED**. Accused-appellant Jose Vastine y Gibson @ "Jimmy" is found **GUILTY** beyond reasonable doubt for violation of Illegal Sale and Illegal Use of Dangerous Drugs as defined and penalized under Sections 5 and 15, Article II of Republic Act No. 9165 respectively, and accordingly, sentenced as follows: (a) in Criminal Case No. 17637-D-TG for Illegal Sale of Dangerous Drugs, accused-appellant is sentenced to suffer the penalty of life imprisonment and a fine of ₱5,000,000.00; and (b) in Criminal Case No. 17636-D-TG for Illegal Use of Dangerous Drugs, accused-appellant is required to undergo drug rehabilitation for a minimum period of six months in a government center as required by law.

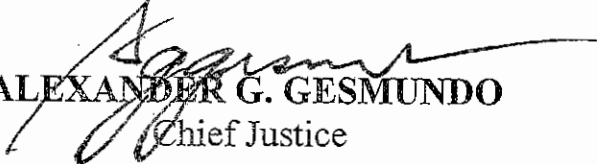
**SO ORDERED.**


  
**RODIL V. ZALAMEDA**  
Associate Justice

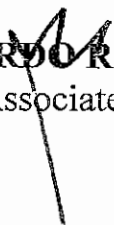
<sup>49</sup> Id. at 60.

<sup>50</sup> *People v. Bontuyan*, 742 Phil. 788, 798 (2014).

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Chief Justice


  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

(on official business)  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice

**CERTIFICATION**

Pursuant to the 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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

