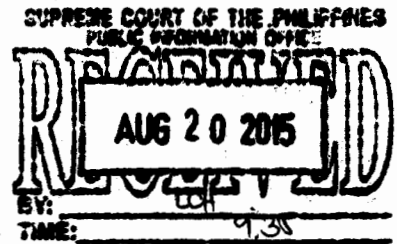




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 03 August 2015 which reads as follows:

" G.R. No. 202684 – People of the Philippines, plaintiff-appellee, v. John Crispo y Castillo, Roel Laforteza y Ubalde and Rodel Cadelina y Boton, accused-appellants.

Appellants John Crispo y Castillo, Roel Laforteza y Ubalde and Rodel Cadelina y Boton were charged with violation of Section 13, Article II of Republic Act No. 9165 (RA 9165; Comprehensive Dangerous Drugs Act of 2002). The accusatory portion of the Information reads:

That on or about the 27th day of September 2008, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, JOHN CRISPO Y CASTILLO, ROEL LAFORTEZA Y UBALDE[,] AND RODEL CADELIÑA Y BOTON, without authority of law, confederating together, acting jointly and helping one another, did then and there, willfully, unlawfully and criminally possess dangerous drug (*shabu*) weighing 0.07 gram and 0.01 gram, contained in plastic sachets during a party or at a social gathering or meeting, or in the proximate company of at least two persons.¹

The case was docketed as Criminal Case No. 2008-0591-D and raffled to Branch 41 of the Regional Trial Court (RTC) of Dagupan City. When arraigned on February 23, 2009, appellants pleaded not guilty to the charge. Trial on the merits ensued.

The prosecution established the following facts:

On September 27, 2008 at around 8:30 o'clock in the evening, a report was received by the desk officer at the Dagupan Police Station x x x from a confidential asset about an on-going pot session in the house of accused John Crispo in Paras St., Bonuan Gueset, Dagupan City. Based on said report, a police team [composed] of Chief of Police PCI Brendon Palisoc, PO3 Lucas Salonga, PO3 Christian Carvajal[,] and PO3 Bernard Arzadon went to the reported place.

Upon arrival at the said place, the team was met by their confidential asset, x x x and they were accompanied by him to and pointed to them the house of accused John Crispo. The police saw at a distance of 3 to 4 meters through the open door three men inside the house sitting fronting each other near a table having a pot session and using *shabu*.

The police entered the house and arrested the three x x x accused x x x

¹ Records, p. 1.

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and confiscated *shabu* paraphernalia such as three improvised tooter, four strips of aluminum foil, three lighters, one long strip of aluminum foil containing suspected *shabu* residue[,] and two plastic sachets with suspected *shabu*. PO3 Lucas Salonga confiscated from accused John Crispo an improvised aluminum tooter which he marked with his initials "LCS", and took from the table a strip of aluminum foil with *shabu* residue and a plastic sachet containing *shabu*. PO3 Christian Carvajal confiscated from accused Roel Laforteza an improvised aluminum tooter which accused was then holding while PO3 Bernard Arzadon confiscated from accused Rodel Cadelifia improvised aluminum tooter and one heat[-]sealed plastic sachet containing *shabu* which he marked with his initials "BBA" and "BBA-1", respectively.

Thereafter, PO3 Christian Carvajal prepared the confiscation receipt, and pictures were taken [of] the three accused and the confiscated items. x x x

The confiscated items were submitted to the PNP Crime Laboratory for examination. Upon examination conducted by PSI Myrna C. Malojo, Forensic Chemical Officer, they were found positive to the test for methamphetamine hydrochloride.²

Appellants' version was in stark contrast with that of the prosecution. Their evidence established that:

On September 27, 2008 at around 8:30 o'clock in the evening, the three accused x x x were in the house of accused John Crispo. While thereat, five men wearing bonnets arrived and took and brought the three accused to the police station in Perez market site, Dagupan City despite their (accused) resistance to go with them.

At the police station, the three accused were shown with *shabu* and paraphernalia and were being forced by Corpus and Salonga to admit that the items belong[ed] to them, and called a photographer and the[y] were photograph[ed] together with the items. Thereafter, they were put inside the detention cell.

On the following day, the accused were brought to Lingayen where their urine samples were taken. Thereafter, they were brought back to the police station in Dagupan City and were returned [to] the detention cell.³

Finding the version of the prosecution more credible, the trial court rendered its Decision on August 9, 2010, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding accused John Crispo y Castillo, Roel Laforteza y Ubalde[,] and Rodel

² Id. at 107-108.

³ Id. at 108.

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Cadeliña GUILTY beyond reasonable doubt of the crime of violation of Section 13, Article II of Republic Act 9165 and pursuant thereto, each of them is sentenced to suffer the penalty of Life Imprisonment and fine of Five Hundred Thousand [Pesos] (₱500,000.00) each, and to pay cost of suit.

The two plastic sachets of *shabu* and *shabu* paraphernalia are forfeited in favor of the government x x x to be disposed in accordance with the law.

SO ORDERED.⁴

On appeal, appellants claimed that the prosecution failed to establish the chain of custody of the confiscated drugs. They claimed that the “records did not disclose who, in particular, held the alleged sachets of *shabu* from the crime scene (after it was marked) up to the police station and finally, to the crime laboratory for the requisite chemical examination.”⁵ On the other hand, the People, as represented by the Office of the Solicitor General (OSG) argued for the affirmance of appellants’ conviction. The OSG stressed that the prosecution was able to prove beyond reasonable doubt all the elements of Section 13, Article II of RA 9165.

On March 21, 2012, the Court of Appeals (CA) rendered its Decision finding the appeal without merit. The CA held that the prosecution satisfactorily established that the three appellants were in possession of *shabu* and *shabu* paraphernalia during a pot session in the house of appellant Crispo. It also noted that the integrity and evidentiary value of the seized items were properly preserved. It entertained no doubt that the *shabu* and the paraphernalia presented in evidence were the same items seized from the appellants. The appellate court noted that the police officers prepared a Confiscation Receipt, took pictures of the seized items in the presence of the appellants and a *barangay kagawad*, sent the items to the crime laboratory for testing, received a copy of the laboratory report, prepared a letter to the Dangerous Drugs Board, and made entries in the police blotter. In addition, they presented Chemistry Report No. D-109-08L and identified the confiscated items during trial. The appellate court did not lend credence to appellants’ claim of frame-up because it was self-serving and uncorroborated. Besides, no ill-motive was shown on the part of the police officers.

The dispositive portion of the CA Decision reads as follows:

WHEREFORE, premises considered, the appeal is DENIED for lack of merit. The Decision dated 09 August 2010 of the Regional Trial Court, First Judicial Region, Branch 41, Dagupan City, in Crim. Case No. 2008-0591-D

⁴ Id. at 110.

⁵ CA *rollo*, p. 48.

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finding accused-appellants John Crispo y Castillo, Roel Laforteza y Ubalde[,] and Rodel Cadelina y Boton guilty beyond reasonable doubt for violation of Section 13, Article II of R.A. No. 9165 and sentencing each of them to suffer the penalty of life imprisonment and to pay a fine of Php500,000.00 is AFFIRMED.

SO ORDERED.⁶

In a Resolution dated November 21, 2012, we required the parties to submit their respective supplemental briefs. However, both parties opted to dispense with the filing of their supplemental briefs since the relevant issues of the case had been exhaustively and substantially discussed in the brief they filed before the CA.

The appeal lacks merit.

At the outset, it must be mentioned that prior to his arrest, appellant Crispo was already under surveillance as he was known in the area as a drug addict and a pusher. Moreover, PO3 Salonga and PO3 Carvajal testified that when they arrived at the place where the house of appellant Crispo was located, they saw the door of the house open. At a distance of three to five meters, they clearly saw all three appellants sitting in front of each other sniffing suspected *shabu* and using *shabu* paraphernalia.⁷ As such, the arrest and the ensuing search and seizure were legal and valid.

We also find that appellants were validly convicted of violation of Section 13, RA 9165. It provides:

Section 13. *Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings.* - Any person found possessing any dangerous drug during a party, or at a social gathering or meeting, or in the proximate company of at least two (2) persons, shall suffer the maximum penalties provided for in Section 11 of this Act, regardless of the quantity and purity of such dangerous drugs.

The prosecution proved beyond reasonable doubt all the essential elements of the crime which are as follows: (1) the appellants were in possession of *shabu* which is a dangerous drug; (2) appellants' possession of the *shabu* was not authorized by law; (3) appellants freely and consciously possessed the *shabu*; and (4) the possession of the *shabu* occurred during a party, or at a social gathering or meeting, or in the proximate company of at least two persons. In this case, the possession of the *shabu* occurred during a pot session where the three appellants

⁶ Id. at 132; penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Elihu Y. Ybañez and Angelita A. Gacutan.

⁷ TSN, PO3 Lucas Salonga, May 6, 2009, p. 11; TSN, PO3 Christian A. Carvajal, August 19, 2009, p. 3.

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were present and participating.

We are not persuaded by appellants' contention that there were flaws in the chain of custody of the *shabu*. As correctly argued by the OSG:


Contrary to the claim of Accused-Appellants, the prosecution has adequately shown the continuous and unbroken possession of the confiscated dangerous drugs and drug paraphernalia: from the confiscation of the two plastic sachets of *shabu* and drug paraphernalia from the Accused-Appellants by the arresting police officers PO3 Salonga, PO2 Carvajal and PO1 Arzadon; the marking with their initials the illegal items which they respectively confiscated from the Accused-Appellants; the seized items were transported by the arresting police officers to the police stati[on]; the confiscated items together with the Accused-Appellants were brought to the investigator; the seized items were turned over to PCI Palisoc as shown by a letter request for laboratory examination; the items were delivered to the PNP Crime Laboratory Office of Lingayen, Pangasinan together with the letter-request; the stamp mark on the letter request shows that the marked specimens and the request were delivered by PO1 Lavariaz and received by PSI Malojo, the Forensic Chemical Officer; PSI Malojo issued the Initial Laboratory Report No. D-109-08L and Chemistry Report No. D-109-08L stating that the marked specimens examined were positive for methylamphetamine hydrochloride or *shabu*; and until the specimens examined (re: dangerous drugs marked as "LCS1" and "BBA1" and drug paraphernalia marked as "LCS", "LCS2", "CAC" and "BBA") were presented to the court by PSI Malojo during the April 14, 2009 hearing. The defense admitt[ed] the physical existence of the specimens as well as the markings thereon.⁸

Finally, we hold that both the RTC and the CA correctly imposed the penalty of life imprisonment and a fine of ₱500,000.00 on each appellant, pursuant to Section 13, in relation to Section 11, Article II, RA 9165. Moreover, appellants are not eligible for parole pursuant to Section 2 of the Indeterminate Sentence Law.

WHEREFORE, the appeal is **DISMISSED**. The assailed March 21, 2012 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 04639 finding appellants guilty beyond reasonable doubt of violation of Section 13, Article II of Republic Act No. 9165 and sentencing each of them to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00 each, is **AFFIRMED with MODIFICATION** that appellants are not eligible for parole.

SO ORDERED."

Very truly yours,


MA. LOURDES C. PERFECTO
Division Clerk of Court *11/12*

⁸ CA rollo, pp. 86-87.

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HON. PRESIDING JUDGE (reg)
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Crim. Case No. 2008-0591-D

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