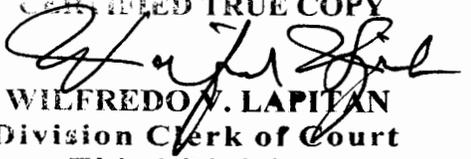




CERTIFIED TRUE COPY  
  
**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division  
 FEB 26 2016

Republic of the Philippines  
**Supreme Court**  
 Manila

**THIRD DIVISION**

**ROBERTO PALO y DE GULA,<sup>1</sup>**  
 Petitioner,

**G.R. No. 192075**

Present:

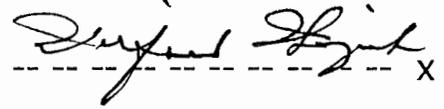
VELASCO, JR., J.,  
*Chairperson,*  
 PERALTA,  
 PEREZ,  
 REYES, and  
 JARDELEZA, JJ.

- versus -

**PEOPLE OF THE PHILIPPINES,**  
 Respondent.

Promulgated:

February 10, 2016



X

X

**DECISION**

**PEREZ, J.:**

For this Court's consideration is a Petition for Review on *Certiorari*<sup>2</sup> under Rule 45 which seeks to reverse and set aside the September 22, 2009 Decision<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 31677. The assailed decision affirmed the July 27, 2007 Decision<sup>4</sup> of the Regional Trial

<sup>1</sup> *Rollo*, pp. 41 & 65; and records, p. 169. Petitioner's name is stated as Roberto Palo y De Gula in the CA and RTC decisions as well as in the present petition. Further, his driver's license bears the same name.

<sup>2</sup> *Id.* at 10-25.

<sup>3</sup> *CA rollo*, pp. 84-97; penned by Associate Justice Martin S. Villarama, Jr. (now a retired member of this Court) and concurred in by Associate Justices Magdangal M. De Leon and Ricardo R. Rosario.

<sup>4</sup> Records, pp. 139-144; penned by Judge Maria Nena J. Santos.



Court (RTC) of Valenzuela City, Branch 171, in Criminal Case No. 586-V-02, finding Roberto Palo y De Gula (petitioner) guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

### *The Antecedent Facts*

Petitioner and his co-accused Jesus Daguman y Ramos (Daguman) were charged with violation of Section 11 (illegal possession of dangerous drugs), Article II of R.A. No. 9165 in an Information,<sup>5</sup> which reads:

“That on or about July 24, 2002 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any authority of law, did then and there wil[l]fully, unlawfully and feloniously have in their possession, custody and control 0.03 gram of Methamphetamine Hydrochloride (shabu), knowing the same to be a regulated drug.

Contrary to Law.”

The two accused were apprehended by the authorities. After posting their bail bonds, both were ordered released. At the scheduled arraignment on September 23, 2002, only Daguman appeared and pleaded not guilty to the offense charged.<sup>6</sup> The petitioner’s sister, Carolina Geronimo, explained that petitioner’s failure to appear in said arraignment was because he was suffering from some kind of mental disorder.<sup>7</sup> For this reason, the trial court ordered the family of the petitioner that he be brought to the National Center for Mental Health for psychiatric evaluation. The trial court also directed the attending physician to submit a report on the petitioner’s mental condition. After receipt of notice that the petitioner was fit for trial, the trial court set his arraignment on March 10, 2003 during which he entered a plea of not guilty.<sup>8</sup>

### *Version of the Prosecution*

To establish its case, the prosecution presented Police Officer 3 Miguel Capangyarihan (PO3 Capangyarihan). During trial, the testimonies of all other prosecution witnesses namely: Police Officer 1 Ernesto Santos (PO1 Santos), Senior Police Officer 1 Reynaldo Tapar (SPO1 Tapar), Police

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<sup>5</sup> Id. at 1.  
<sup>6</sup> Id. at 24.  
<sup>7</sup> Id.  
<sup>8</sup> Id. at 49.



Officer 2 Miguel Isla (PO2 Isla), and Police Inspector Juanita Sioson (P/Insp. Sioson) were dispensed with upon stipulation by the parties.

PO3 Capangyarihan, a member of the Valenzuela City Police, testified that at around 6:30 in the evening of July 24, 2002, he was walking along a dark alley at Mercado Street, Gen. T. De Leon in Valenzuela City. With him at that time was a boy who was a victim of a stabbing incident and right behind them, was PO1 Santos. While they were walking toward the petitioner's direction, at a distance of about five to seven meters, PO3 Capangyarihan saw the petitioner and Daguman talking to each other. PO3 Capangyarihan also noticed the petitioner holding a plastic sachet in his hand who was then showing it to Daguman. Believing that the plastic sachet contained *shabu*, from the manner by which the petitioner was holding the sachet, PO3 Capangyarihan immediately approached the petitioner, held and recovered from his hand the said plastic sachet. Right there and then, the petitioner was arrested by PO3 Capangyarihan. Daguman was also arrested by PO1 Santos.

PO3 Capangyarihan further testified that the petitioner and Daguman were informed of their constitutional rights and that the two accused, together with the item seized, were brought to the police station where the confiscated item was marked by PO3 Capangyarihan with petitioner's initials "RPD." During his cross-examination, PO3 Capangyarihan disclosed that there is a rampant selling of *shabu* at the place where the two accused were apprehended and that his suspicion was aroused by the petitioner's delicate way of handling the plastic sachet.

PO3 Capangyarihan turned over the petitioner, Daguman and the confiscated item to SPO1 Tapar, the investigator of the case. The parties stipulated that SPO1 Tapar received one (1) heat-sealed transparent plastic sachet with "RPD" marking from PO3 Capangyarihan, which item was marked in evidence as Exhibit "B". SPO1 Tapar prepared the letter-request for the examination of the substance found inside the plastic sachet. Also stipulated was the fact that after SPO1 Tapar's investigation, the seized item (Exhibit "B") and the said letter-request were transmitted by him to PO2 Isla for delivery to the Philippine National Police Crime Laboratory-Northern Police District Crime Laboratory Office (PNPCL-NPDCLO).

The testimony of PO2 Isla was dispensed with as the prosecution and defense agreed that: (1) he received from SPO1 Tapar the seized item marked as Exhibit "B" as well as the corresponding letter-request for laboratory examination; (2) he delivered these two to the PNPCL-NPDCLO; and (3) both the seized item and the letter-request were accepted by P/Insp. Sioson.



Likewise dispensed with was the testimony of P/Insp. Sioson, a forensic chemical officer of the PNPCL-Camp Crame, Quezon City, after the defense acknowledged that her office received one (1) heat-sealed small transparent plastic sachet bearing the marking “RPD” (Exhibit “B”) together with the letter-request for laboratory examination. In addition, the defense admitted that the contents of the sachet tested positive for methylamphetamine hydrochloride, more commonly known as *shabu*. P/Insp. Sioson's examination of the submitted specimen was reduced into writing as embodied in her Chemistry Report No. D-706-02 containing the following entries:

“SPECIMEN SUBMITTED:

A-One (1) heat-sealed transparent plastic sachet with markings “RPD” containing 0.03 gram of white crystalline substance. xxx

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of prohibited and/or regulated drug. xxx

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the tests for Methylamphetamine hydrochloride, a regulated drug. xxx

CONCLUSION:

Specimen A contains Methylamphetamine hydrochloride, a regulated drug. xxx”<sup>9</sup>

Lastly, the parties stipulated on the fact that PO1 Santos, also of the Valenzuela City Police Station, arrested Daguman but found no *shabu* in his possession at the time of his arrest.<sup>10</sup>

***Version of the Defense***

The defense, on the other hand, presented the petitioner and Daguman as witnesses.

According to the petitioner, he can no longer recall the date and time of his arrest. All the same, the petitioner testified that he and Daguman were just sitting along the road, in front of a house that was raided by PO3 Capangyarihan and PO1 Santos. One or two persons were arrested from the

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<sup>9</sup> Id. at 4.

<sup>10</sup> Id. at 57.

raid. The petitioner averred that when the police officers passed by him and Daguman, they were arrested and frisked but nothing was found in their persons. Nevertheless, the two accused were made to board the police vehicle, brought to the police station and detained thereat. The petitioner insisted that he had never been involved in any drug-related incident prior to his arrest. On cross-examination, he stated that he only complained to his sister of the illegality of his arrest.<sup>11</sup>

Testifying in his behalf, Daguman denied the accusation against him. He claimed that on the day of the incident, he went to the petitioner's place to play *cara y cruz*. Instead of gambling, Daguman was invited by the petitioner to go somewhere to get *shabu*. Daguman narrated that they rode a jeep and alighted at Mercado Street, Valenzuela City to look for the person from whom the petitioner would buy *shabu*. After the two accused met a certain Joseph, a *shabu* seller, the transaction between the petitioner and the latter started. While the petitioner and Joseph were busily selecting which plastic sachet had more contents, they caught the attention of the police officers. The police officers approached them and when they were about to be arrested, the petitioner went berserk, challenged the arresting officers to a fistfight and told them that they were only brave as they were armed. Nonetheless, the three were arrested. Daguman confirmed that several plastic sachets were confiscated from Joseph while one (1) small plastic sachet of *shabu* and a ₱100.00 bill were recovered from the petitioner at the time of their apprehension. On direct and cross-examination, Daguman categorically stated that no *shabu* was taken from him.<sup>12</sup>

### *The RTC's Ruling*

After trial, judgment was rendered by the RTC convicting the petitioner of the offense charged. The trial court ruled that the prosecution sufficiently established all the elements of illegal possession of dangerous drugs and as the petitioner had been caught *in flagrante delicto*, his warrantless arrest was justified pursuant to Section 5, Rule 113 of the Rules of Court.<sup>13</sup> The RTC applied the presumption of regularity in the

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<sup>11</sup> TSN, June 15, 2004, p. 8.

<sup>12</sup> TSN, April 25, 2006, pp. 6-7.

<sup>13</sup> Section 5, Rule 113 of the Rules of Court provides:

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;
- (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
- (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.



performance of the police officers' duties since no ill motive on their part was shown by the defense. However, the trial court acquitted Daguman for insufficiency of evidence. The dispositive portion of the RTC Decision reads:

**WHEREFORE**, premises considered, accused **ROBERT[O] PALO y DE GULA** is hereby found **GUILTY** beyond reasonable doubt for violation of *Section 11, Article II of R.A. No. 9165*. Consequently, said accused is hereby ordered to suffer the penalty of imprisonment of **eight years (8) and one (1) day** as minimum to **fourteen (14) years and eight (8) months** as maximum. In addition thereto, the said accused is further ordered to pay a **FINE of Three Hundred Thousand Pesos (Php 300,000.00)**.

Anent, accused **JESUS DAGUMAN y RAMOS**, for insufficiency of evidence, he is hereby **ACQUITTED** of the offense charged. Accordingly, the bailbond posted by the said accused for his provisional liberty is hereby ordered **RELEASED** from liability.

The Branch Clerk of this Court is hereby directed to turn over to PDEA the drugs used as evidence in this case for proper disposition.

**SO ORDERED.**<sup>14</sup>

### *The CA's Ruling*

On appeal, the CA affirmed the prior ruling of the RTC. The CA held that the chain of custody over the seized item was unbroken from the time it was confiscated from the petitioner at the crime scene until the same was brought to the crime laboratory for examination. It added that failure of the police officer to comply strictly with the directives embodied in Section 21, Article II of R.A. No. 9165 is not necessarily fatal to the prosecution's case if justifiable grounds exist and for as long as the integrity and evidentiary value of the seized item has been properly preserved. The appellate court also found the testimony of PO3 Capangyarihan credible and accorded the police officer the presumption of regularity in the performance of his official duty. On the other hand, it completely disregarded the self-serving and uncorroborated denial by the petitioner.

Thereafter, the petitioner filed his Motion for Reconsideration<sup>15</sup> of the CA Decision. Finding no merit in the motion, it was denied by the CA through its Resolution<sup>16</sup> dated April 14, 2010.

<sup>14</sup> Records, pp. 143-144.

<sup>15</sup> CA *rollo*, pp. 98-102.

<sup>16</sup> Id. at 122-123.

### *The Issues*

Hence, this Petition for Review on *Certiorari* raising two issues, namely: (1) whether the Honorable Court of Appeals gravely erred in finding the petitioner guilty beyond reasonable doubt of the crime charged despite the dearth of evidence supporting the prosecution's contention; and (2) whether the Honorable Court of Appeals gravely erred in affirming the decision of the trial court notwithstanding the arresting officers' patent non-compliance with the proper chain of custody of the seized dangerous drugs.

### *The Court's Ruling*

The petition is bereft of merit.

Illegal possession of dangerous drugs is penalized under Section 11, Article II of R.A. No. 9165, to wit:

Section 11. *Possession of Dangerous Drugs.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

xxxx

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

xxxx

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (₱300,000.00) to Four hundred thousand pesos (₱400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

To secure a conviction for illegal possession of a dangerous drug, the concurrence of the following elements must be established by the

prosecution: (1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.<sup>17</sup>

The Court finds that these elements were proven by the prosecution in the present case. PO3 Capangyarihan testified in a clear and straightforward manner that when he chanced upon petitioner, the latter was caught red-handed in the illegal possession of *shabu* and was arrested *in flagrante delicto*. On direct examination, the police officer positively identified the petitioner as the person holding, scrutinizing and from whom the plastic sachet was confiscated. After conducting a chemical analysis, the forensic chemical officer certified that the plastic sachet recovered from the petitioner was found to contain 0.03 gram of *shabu*. Nowhere in the records was it shown that the petitioner is lawfully authorized to possess the dangerous drug. Furthermore, Daguman admitted that the petitioner intentionally sought and succeeded in getting hold of *shabu*. Clearly, the petitioner knowingly possessed the dangerous drug, without any legal authority to do so, in violation of Section 11, Article II of R.A. No. 9165.

The Court concurs with the trial court in attributing full faith and credence to the testimony of PO3 Capangyarihan. His detailed narration in court remained consistent with the documentary and object evidence submitted by the prosecution. As there is nothing in the record to indicate that PO3 Capangyarihan was impelled by improper motive when he testified against the petitioner, the Court upholds the presumption of regularity in the apprehending officer's performance of official duty.

In addition to the above-mentioned elements, the prosecution must prove the *corpus delicti*<sup>18</sup> which in drug-related cases refers to the dangerous drug itself,<sup>19</sup> in this case, *shabu*. As repeatedly ruled by this Court, the identity, integrity and evidentiary value of the *corpus delicti* are properly preserved for as long as the chain of custody of the same are duly established.<sup>20</sup>

The essence of the chain of custody rule is to make sure that the dangerous drug presented in court as evidence against the accused is the same dangerous drug recovered from his or her possession.<sup>21</sup>

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<sup>17</sup> *Tionco v. People*, G.R. No. 192284, March 11, 2015.

<sup>18</sup> In *People v. Climaco*, 687 Phil. 593, 603 (2012), *corpus delicti* is defined as the body of the crime.

<sup>19</sup> *Id.*

<sup>20</sup> *People v. Alviz*, G.R. No. 177158, February 6, 2013, 690 SCRA 61, 76.

<sup>21</sup> *People v. Musa*, G.R. No. 199735, October 24, 2012, 684 SCRA 622, 638.



To preserve the chain of custody over the seized drugs, Section 21(1), Article II of R.A. No. 9165<sup>22</sup> prescribes:

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

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

xxxx

The aforequoted provision is expounded in Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of R.A. No. 9165, to wit:

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

<sup>22</sup>

Section 21 of R.A. No. 9165 has been amended by R.A. No. 10640 (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"). Taking into account that the incident in this case occurred on July 24, 2002 and the old law was favorable to herein petitioner, the Court shall apply the earlier version of Section 21 and its corresponding Implementing Rules and Regulations.



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.<sup>23</sup>

In seeking acquittal, the petitioner insists that the failure of the arresting officers to comply with the directives outlined in Section 21(a), Article II of the IRR of R.A. No. 9165 particularly on the requirements of markings, physical inventory and photograph of the seized items translates to their failure to preserve the integrity and evidentiary value of the confiscated item.

The Court disagrees with the argument of the petitioner.

The fact that the apprehending officer marked the plastic sachet at the police station, and not at the place of seizure, did not compromise the integrity of the seized item. Jurisprudence has declared that “marking upon immediate confiscation” contemplates even marking done at the nearest police station or office of the apprehending team.<sup>24</sup> Neither does the absence of a physical inventory nor the lack of photograph of the confiscated item renders the same inadmissible. What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items as these would be used in determining the guilt or innocence of the accused.<sup>25</sup>

The Court is convinced that the integrity and evidentiary value of *shabu* seized from the petitioner had been preserved under the chain of custody rule even though the prescribed procedure under Section 21(1), Article II of R.A. No. 9165, as implemented by Section 21(a), Article II of the IRR of R.A. No. 9165, was not strictly complied with.

Here, evidence shows that immediately after both the petitioner and the plastic sachet were brought to the police station by PO3 Capangyarihan, the latter marked the plastic sachet with petitioner’s initials “RPD” and turned them over to investigator SPO1 Tapar. SPO1 Tapar forwarded the plastic sachet bearing “RPD” initials as well as the letter-request for laboratory examination to PO2 Isla. PO2 Isla delivered the same marked

<sup>23</sup> Id. at 636-638.

<sup>24</sup> *Marquez v. People*, G.R. No. 197207, March 13, 2013, 693 SCRA 468, 475.

<sup>25</sup> *Tionco v. People*, G.R. No. 192284, March 11, 2015.

sachet and the letter-request to forensic chemical officer P/Insp. Sioson, of the PNPCL-NPDCLCLO, for examination of the contents of said sachet. As earlier mentioned, the contents of the marked sachet tested positive for methylamphetamine hydrochloride or *shabu*.

It should be emphasized that the parties have already stipulated on the names of the above-stated persons who handled and essentially covered every movement of the seized item. The parties are bound by the stipulations they made in the trial court.

In effect, the prosecution was able to account for every link in the chain of custody starting from the time the *shabu* was confiscated by the arresting officer from the petitioner until the same was received by the forensic chemical officer for examination. Moreover, when the prosecution presented as evidence in court the plastic sachet with "RPD" initials, PO3 Capangyarihan positively identified that the *shabu* submitted for laboratory examination is the same one taken from the petitioner.

Further, the Court sees no compelling reason to deviate from the factual findings of the trial court as affirmed by the appellate court. Fundamental is the rule that factual findings of the trial courts involving the credibility of witnesses are accorded great weight and respect when no glaring errors, gross misapprehension of facts or speculative, arbitrary and unsupported conclusions can be gathered from such findings.<sup>26</sup>

The lower courts correctly rejected petitioner's defense of denial for being self-serving and uncorroborated. Denial is inherently a weak defense which cannot outweigh positive testimony of a prosecution witness.<sup>27</sup> "A defense of denial which is unsupported and unsubstantiated by clear and convincing evidence becomes negative and self-serving, deserving no weight in law, and cannot be given greater evidentiary value over convincing, straightforward and probable testimony on affirmative matters."<sup>28</sup> In the instant case, the defense of denial fails even more when the petitioner's co-accused, Daguman, confirmed that the petitioner had every intent to possess and was caught in actual possession of *shabu*.

Thus, the Court affirms the conviction of the petitioner for illegal possession of 0.03 gram of *shabu*.

<sup>26</sup> *People v. Macatingag*, G.R. No. 181037, January 19, 2009, 576 SCRA 354, 366.

<sup>27</sup> *People v. Bitancor*, 441 Phil. 758, 769 (2002).

<sup>28</sup> *People v. Salvador*, G.R. No. 190621, February 10, 2014, 715 SCRA 617, 632.



As previously cited, the penalty for illegal possession of less than five (5) grams of *shabu* is imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (₱300,000.00) to Four hundred thousand pesos (₱400,000.00). Under the Indeterminate Sentence Law, the petitioner shall be sentenced to an indeterminate sentence, the minimum period of which shall not be less than the minimum term fixed by law while the maximum period shall not exceed the maximum term prescribed under the same law.

The RTC and CA sentenced the petitioner to suffer the penalty of eight years (8) and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum. The lower courts also ordered the petitioner to pay a fine of Three Hundred Thousand Pesos (₱300,000.00).

The penalty meted out by the RTC and CA should be modified as it is not in accord with the provisions of the Indeterminate Sentence Law. Applying the Indeterminate Sentence Law the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, is proper under the premises.

With respect to the imposed fine of Three Hundred Thousand Pesos (₱300,000.00), this amount is sustained as it is in accordance with that prescribed under Section 11(3), Article II of R.A. No. 9165.

**WHEREFORE**, the September 22, 2009 CA Decision in CA-G.R. CR No. 31677 is hereby **AFFIRMED** with **MODIFICATION**. Petitioner Roberto Palo y De Gula is sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and to pay a fine of Three Hundred Thousand Pesos (₱300,000.00).

**SO ORDERED.**

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

WE CONCUR:

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
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.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Third Division, Chairperson

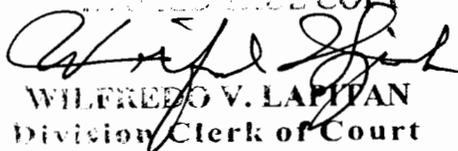
**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division 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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

EXHIBIT COPY



**WILFREDO V. LAPIDAN**  
Division Clerk of Court  
Third Division

FEB 26 2016