



**Republic of the Philippines  
Supreme Court  
Manila**

**THIRD DIVISION**

**EMILY ESTORES y  
PECARDAL,**

Petitioner,

- versus -

**PEOPLE OF THE  
PHILIPPINES**

Respondent.

**G.R. No. 192332**

Present:

LEONEN,  
*Chairperson,*  
HERNANDO,  
INTING,  
DELOS SANTOS, and  
ROSARIO, JJ.

Promulgated:

January 11, 2021

*Mis-DCBatt*

X-----X

**DECISION**

**HERNANDO, J.:**

Challenged in this Petition for Review on *Certiorari*<sup>1</sup> is the August 25, 2009 Decision<sup>2</sup> and May 17, 2010 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02794, which affirmed the June 30, 2006 Decision<sup>4</sup> of the Regional Trial Court (RTC), Branch 219, Quezon City in Criminal Case No. Q-99-85436 which found petitioner Emily Estores y Pecardal (Emily) and her co-accused Miguel Canlas y Maniquis (Miguel) guilty beyond reasonable doubt of violation of Section 16, Article III in relation to Section 2(e)(2), Article 1 of Republic Act (R.A.) No. 6425, otherwise known as *The Dangerous Drugs Act of 1972*, as amended by R.A. No. 7659. Both were sentenced by the trial court to suffer the penalty of *reclusion perpetua* and to pay a fine of ₱1,000,000.00.

<sup>1</sup> *Rollo*, pp. 8-22.

<sup>2</sup> *CA rollo*, pp. 279-299; penned by Associate Justice Rosmari D. Carandang (now a Member of this Court) and concurred in by Associate Justices Arturo G. Tayag and Michael P. Elbinias.

<sup>3</sup> *Id.* at 317-318.

<sup>4</sup> Records, pp. 716-767; penned by Judge Bayani V. Vargas.

**The Antecedents:**

Petitioner Emily and her co-accused Miguel and Josefina Pecardal-Estores (Josefina) were charged before the RTC with violation of Section 16, Article III in relation to Section 2(e)(2), Article 1 of R.A. No. 6425 as amended by R.A. No. 7659, in an Information<sup>5</sup> that reads:

That on or about the 15<sup>th</sup> day of July 1999 in Quezon City, Philippines, the said accused, conspiring, confederating and mutually helping one another did then and there willfully, unlawfully, and knowingly possess and/or use one thousand one hundred twenty point six (1,120.6) grams of white crystalline substance containing methylamphetamine hydrochloride, a regulated drug, without the necessary license and/or prescription therefor, in violation of said law.<sup>6</sup>

Upon arraignment, Emily pleaded not guilty to the crime charged.<sup>7</sup> Thereafter, trial on the merits ensued. Senior Police Officer 2 Antonio Conlu (SPO2 Conlu), Police Inspector Edwin Zata (PI Zata), Police Chief Inspector Christopher Tambungan (PCI Tambungan), Police Officer 2 Rogelio P. Lagran (PO2 Lagran) and Police Senior Inspector Sonia Sahagun Ludovico (PSI Ludovico) appeared as witnesses for the prosecution.

**Evidence for the Prosecution:**

The evidence for the prosecution presented the following version of events:

On July 5, 1999, upon the order of PCI Tambungan, then the Chief of the Philippine National Police (PNP) Narcotics Group, Ninoy Aquino International Airport (NAIA) Interdiction Group, PO2 Lagran and the confidential informant (CI) conducted a test buy operation against petitioner Emily and accused Miguel and Josefina in their residence located at No. 12 Pusoy St., Masambong, Quezon City. PO2 Lagran successfully bought a ₱5,000 worth of *shabu* from accused Miguel which, when submitted for laboratory examination tested positive for methamphetamine hydrochloride. Thereafter, PCI Tambungan instructed SPO2 Conlu to apply for a search warrant with the depositions of PO2 Lagran and the CI, the sketch of the given address and the result of the laboratory examination as supporting documents.<sup>8</sup>

On July 14, 1999, Executive Judge Manuel Fernandez, Jr. of the RTC of Las Piñas issued Search Warrant No. 99-005<sup>9</sup> against petitioner Emily and accused Miguel and Josefina at their three-storey residence located at No. 12, Pusoy St., Masambong, Quezon City.

On July 15, 1999, at around 9:30 in the morning, PCI Tambungan formed a team and conducted the search upon the house located at No. 12, Pusoy St., Masambong, Quezon City. They searched the room in the third floor in the presence

---

<sup>5</sup> Id. at 1-2.

<sup>6</sup> Id. at 1.

<sup>7</sup> Id. at 90.

<sup>8</sup> *Rollo*, p. 24.

<sup>9</sup> Records, p. 108.

of petitioner Emily and accused Miguel where SPO2 Conlu found a plastic bag containing white crystalline substance in one of the drawers of the cabinet.<sup>10</sup>

SPO2 Conlu marked the confiscated item with his initials "AC" and submitted it to the PNP Crime Laboratory for examination. The results<sup>11</sup> yielded positive for methamphetamine hydrochloride. Subsequently, petitioner Emily together with her co-accused Miguel and Josefina were charged with violation of Section 16, Article III in relation to Section 2(e)(2), Article 1 of R.A. No. 6425, as amended by R.A. No. 7659.<sup>12</sup>

#### **Evidence for the Defense:**

On the other hand, the defense presented petitioner Emily, accused Josefina, Flora San Jose and Reynaldo Bantag as witnesses. According to the evidence for the defense, on July 15, 1999, at around 8 o'clock in the morning, petitioner Emily was sleeping with her two sons in her room in the third floor when she heard a loud noise. When she opened her eyes, there were men poking guns at her and her two sons. She shouted for help and looked for her live-in partner, accused Miguel, who was in the next room.<sup>13</sup>

Thereafter, the police officers ordered them to go down while they searched their room at the third floor. Thus, she, together with her sons and accused Miguel, went down to the living room. When she asked her mother, accused Josefina, what was happening, the latter told her that the police officers were looking for illegal drugs. Petitioner then asked PCI Tambungan for the search warrant which the latter showed to her. She then requested them to accompany her in her room in the third floor and the police officers agreed and escorted her. When she went down again to the living room, she saw her cousin, Kuya Toytoy, with a paper bag which according to accused Josefina contained nearly half a million pesos. The policers officers then grabbed the said paper bag from his cousin.<sup>14</sup>

Afterwards, Emily, with her sons and her co-accused Miguel and Josefina, were brought to a small apartment behind the cargo containers at the back of the airport in Parañaque. They stayed therein from July 15 to July 19, 1999. Then on July 19, 1999, they were taken to Station 10 and on July 20, 1999, they were brought to Camp Crame. She wanted to file charges against the police officers who arrested them and informed her lawyer regarding it but the latter unfortunately died. She testified that, if given the chance, she will file a case against the concerned police officers.<sup>15</sup>

#### **Ruling of the Regional Trial Court:**

On June 30, 2006, the RTC rendered its Decision<sup>16</sup> convicting petitioner and accused Miguel of violation of Section 16, Article III in relation to Section 2(e)(2),

---

<sup>10</sup> *Rollo*, p. 26.

<sup>11</sup> *Records*, p. 137.

<sup>12</sup> *Rollo*, pp. 26-27.

<sup>13</sup> *Id.* at 28.

<sup>14</sup> *Id.* at 28-29.

<sup>15</sup> *Id.* at 29.

<sup>16</sup> *Records*, pp. 716-767.

Article 1 of R.A. No. 6425, otherwise known as *The Dangerous Drugs Act of 1972*, as amended by R.A. No. 7659. On the other hand, accused Josefina was acquitted of the charge.

The RTC found that petitioner had constructive possession of the seized illegal drugs in her room in the third floor of the house which she shared with her live-in partner, Miguel. Constructive possession exists when the drug is under the dominion and control of the accused or when he/she has the right to exercise dominion and control over the place where it is found. Emily's knowledge of the existence of the prohibited drugs is presumed from the fact that the said illegal drug was found in her room over which she had complete control and dominion. Petitioner cannot escape criminal liability based merely on her defense of denial of any involvement in the criminal activities of her live-in partner when she, herself, had full access to the room as well as the cabinet where the seized illegal drug was discovered.<sup>17</sup>

The *fallo* of the RTC judgment reads:<sup>18</sup>

WHEREFORE, the court finds the accused MIGUEL CANLAS y MANIQUIS and EMILY ESTORES y PERCARDAL, GUILTY beyond reasonable doubt of Viol. of Sec. 16, Art. III in rel. to Sec. 2 (e) (2), Art. 1 of R.A. 6425 as amended by R.A. 7659, and thereby sentences both of them to suffer the penalty of RECLUSION PERPETUA and to each pay the fine in the amount of ONE MILLION PESOS (₱1,000,000.00).

For failure of the prosecution to prove the guilt of the accused JOSEFINA PERCARDAL-ESTORES beyond reasonable doubt of the crime charged in the information, judgment is hereby rendered ACQUITTING her of the charge.

SO ORDERED.<sup>19</sup>

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

In its assailed Decision,<sup>20</sup> the CA denied petitioner's appeal. The appellate court pointed out that the illegal drug was recovered in her bedroom, to which petitioner has actual and exclusive possession, control and dominion. She cannot escape criminal liability on the bare assertion that she did not have control or dominion of the room since she shared it with her live-in partner who could easily hide the illegal drugs without her knowledge or discovery. The appellate court opined that even if petitioner shared the room with Miguel, it is contrary to human experience for Emily not to know about the dealings or activities of Miguel. Thus, it concluded that petitioner had knowledge of the illegal drugs being kept in their room.<sup>21</sup>

Moreover, petitioner herself testified that Miguel did not permanently reside in the house as he was sometimes away for two to three months. It is likewise ridiculous that the seized illegal drugs could easily be mistaken for ordinary

---

<sup>17</sup> Id. at 764.

<sup>18</sup> Id. at 767.

<sup>19</sup> Id.

<sup>20</sup> CA *rollo*, pp. 279-299.

<sup>21</sup> Id. at 289-292.

household items like powder detergent, *tawas*, or even sugar as it is highly unlikely that it would be kept in one's bedroom cabinet. Also, petitioner failed to show that she or Miguel was using *tawas* to justify its presence in their room.<sup>22</sup>

Lastly, the appellate court ruled that in the execution of a search warrant, the requirements that must be met should be those under Rule 126 of the Rules of Court. Hence, the non-observance of the procedure prescribed under the PNP Rules of Engagement would not invalidate the execution and service of the search warrant. It is evident in the records that petitioner Emily and accused Miguel were present during the search by the police officers in their room in the third floor of the house which sufficiently satisfied the requirements of Rule 126, that is, the search must be made in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality.<sup>23</sup>

The Court of Appeals ultimately affirmed the June 30, 2006 Decision of the RTC, to wit:<sup>24</sup>

Prescinding from the foregoing, We affirm the ruling of the trial court finding accused-appellant guilty beyond reasonable doubt of the crime of violation of Section 16, Article III in relation to Section 2 (e) (2), Article 1 of Republic Act (R.A.) 6425, as amended by R.A. 7659, having been found in possession of 1,120.6 grams of shabu. The imposed penalty of *reclusion perpetua* and a fine of P1,000,000.00 is maintained.

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Decision dated June 30, 2006 of the Regional Trial Court of Quezon City, Branch 219, is hereby AFFIRMED.<sup>25</sup>

Petitioner's Motion for Reconsideration was subsequently denied by the appellate court in its May 17, 2010 Resolution.<sup>26</sup>

Hence, petitioner filed this Petition<sup>27</sup> for Review on *Certiorari* under Rule 45.

### Issues

Petitioner raised the following errors of the appellate court:<sup>28</sup>

#### I

WHETHER OR NOT THE COURT OF APPEALS ERRED IN RULING THAT PETITIONER HAS "CONSTRUCTIVE" POSSESSION AND KNOWLEDGE OF THE PROHIBITED DRUGS.

---

<sup>22</sup> Id. at 289-290.

<sup>23</sup> Id. at 292-295.

<sup>24</sup> Id. at 298-299.

<sup>25</sup> Id.

<sup>26</sup> Id. at 317-318.

<sup>27</sup> *Rollo*, pp. 8-22.

<sup>28</sup> Id. at 11.

## II

WHETHER OR NOT THE SEARCH AND SEIZURE AND HANDLING OF THE PROHIBITED DRUGS WERE DONE IN ACCORDANCE WITH LAW.<sup>29</sup>

**Petitioner's Arguments:**

Petitioner argues that the prosecution must prove her constructive possession by direct or circumstantial evidence and by reasonable inference drawn therefrom that she had knowledge of the existence, presence and character of the drug in the place under her control. The prosecution cannot just show that she lived in a room where the illegal drugs were recovered. It must also present other evidence to prove her possession thereof. In the instant case, there is no other concrete evidence presented by the prosecution that she indeed placed the said illegal drugs in her room or knew of its existence.<sup>30</sup>

Petitioner further contends that the case of *People v. Tira*<sup>31</sup> (*Tira*) cannot be applied in her case because the concept of presumptive knowledge by the accused of the existence and character of the drugs in a place where she exercises dominion only applies in the absence of any satisfactory explanation as to the presence of illegal drugs. Petitioner maintains that the said presumption has been satisfactorily rebutted in this case. She insists that she had no knowledge of the presence of the said illegal drugs in her room and that there is no other competent evidence or witness who testified on having personal knowledge of her involvement in any drug activity or the seized illegal drugs.<sup>32</sup>

Moreover, petitioner points out that the legal procedure in conducting a search and seizure was not followed by the police officers. The PNP New Rules on Engagement requires that a search warrant should be implemented in the presence of at least two (2) witnesses preferably barangay officials or responsible persons in the area. In the present case, petitioner contends that the barangay chairman was not present during the conduct of the search and arrived only after the search was completed. Petitioner opines that the PNP New Rules on Engagement makes mandatory the presence of at least two witnesses during the conduct of the search. Moreover, the police officers failed to present photographs of the seized illegal drugs and weigh the evidence in violation of the Dangerous Drugs Act and the PNP New Rules on Engagement.<sup>33</sup>

**Respondent's Arguments:**

The respondent People of the Philippines, through the Office of the Solicitor General (OSG), argues that only questions of law may be raised in petitions for

---

<sup>29</sup> Id. at 10-11.

<sup>30</sup> Id. at 112.

<sup>31</sup> 474 Phil. 152 (2004).

<sup>32</sup> *Rollo*, pp. 12-13.

<sup>33</sup> Id. at 16-19.

review under Rule 45. Petitioner failed to show that there is a need for this Court to re-assess the evidence already passed upon in the proceedings in the courts below.<sup>34</sup>

Moreover, respondent contends that petitioner was properly convicted of constructive possession of *shabu* since she failed to justify its presence in her room. The burden of evidence was on petitioner to prove that she did not have knowledge and constructive possession of the confiscated illegal drugs.<sup>35</sup>

Furthermore, petitioner failed to overcome the presumption of regularity in the performance of official duties of the police officers. Under Section 8, Rule 126 of the Rules of Court, no search of a room shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality. The prosecution sufficiently proved that the search was conducted in the presence of the lawful occupants of the premises being searched, herein petitioner and accused Miguel.<sup>36</sup>

Also, the identity of the illegal drug seized had been sufficiently preserved. An inventory of the confiscated items was prepared and acknowledged by accused Josefina. It was properly marked by SPO2 Conlu and brought by PCI Tambungan to the crime laboratory for examination.<sup>37</sup>

Lastly, respondent contends that if indeed the police officers extorted or demanded money from petitioner, she should have filed the necessary criminal and/or administrative charges against the concerned law enforcers but she did not.<sup>38</sup>

### Our Ruling

The petition is without merit.

The elements of Illegal Possession of Dangerous Drugs under Section 16, Article III, in relation to Section 2(e) (2), Article I of R.A. No. 6425, as amended by R.A. No. 7659, are: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.<sup>39</sup> In *Tira*,<sup>40</sup> this Court substantially discussed the concept of “possession” under Section 16, Article III of R.A. No. 6425, as amended, and the evidence necessary to prove the said crime, in that:

This crime is *mala prohibita*, and as such, criminal intent is not an essential element. However, the prosecution must prove that the accused had the intent to possess (*animus possidendi*) the drugs. Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused. On the other hand,

---

<sup>34</sup> Id. at 115.

<sup>35</sup> Id. at 116-119.

<sup>36</sup> Id. at 119-120.

<sup>37</sup> Id. at 120-121.

<sup>38</sup> Id. at 124-125.

<sup>39</sup> *People v. Dela Cruz*, 592 Phil. 207, 215 (2008) citing *People v. Naquita*, 582 Phil. 422 (2008).

<sup>40</sup> *Supra* note 31.

constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found. Exclusive possession or control is not necessary. The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another.

Thus, conviction need not be predicated upon exclusive possession, and a showing of non-exclusive possession would not exonerate the accused. Such fact of possession may be proved by direct or circumstantial evidence and any reasonable inference drawn therefrom. However, the prosecution must prove that the accused had knowledge of the existence and presence of the drug in the place under his control and dominion and the character of the drug. Since knowledge by the accused of the existence and character of the drugs in the place where he exercises dominion and control is an internal act, the same may be presumed from the fact that the dangerous drugs is in the house or place over which the accused has control or dominion, or within such premises in the absence of any satisfactory explanation.<sup>41</sup>

When a prohibited drug is found in a house or other building belonging to and occupied by a particular person, the presumption arises that such person is in possession of such drugs in violation of law. The fact of finding the said illegal drug is sufficient to convict.<sup>42</sup> In other words, the finding of illegal drugs in a house owned by the accused, or in this case, the room occupied and shared by petitioner and accused Miguel, raises the presumption of knowledge and, standing alone, was sufficient to convict. Petitioner failed to present any evidence to rebut the existence of *animus possidendi* over the illegal drugs found in the cabinet inside her room. Her claim that she was unaware that illegal drugs were in her room fails to convince. Mere denial cannot prevail over the positive testimony of a witness. It is a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.<sup>43</sup> As testified by PO2 Conlu:<sup>44</sup>

FISCAL

Q: When you entered the house, what happened next, if any?

A: We conducted a search and a plastic bag containing shabu was recovered.

x x x x

Q: Who was the one who recovered that plastic bag with the alleged shabu?

A: I was the one, ma'am.

Q: What portion of the house were you able to get that?

A: On the third floor, ma'am.

Q: Who were present at that time when you were able to recover it on the third floor?

A: The husband and wife, Miguel and Emily. (Witness pointing to a man seated in the courtroom who when asked to identify themselves gave their names as Miguel Canlas and Emily Estores).

Q: Do you know whose room was that from where you recovered the plastic bag?

---

<sup>41</sup> Id. at 173-174.

<sup>42</sup> *People v. Torres*, 533 Phil. 227, 247 (2006).

<sup>43</sup> Id.

<sup>44</sup> Records, Vol. 1, TSN, March 22, 2000, pp. 14-16.

A: Their room. (Witness pointing to the two accused earlier identified as Miguel Canlas and Emily Estores).<sup>45</sup>

In this case, the illegal drugs were found in the cabinet inside petitioner's room which she admittedly shared with Miguel. The fact that petitioner shared with Miguel the room where the illegal drugs were found, will not exculpate her from criminal liability. First, petitioner Emily exercised control and dominion over the said room where the illegal drugs were found as she was the occupant. Petitioner herself admitted that Miguel did not permanently stay therein as he normally would stay out for two to three months. Lastly, she testified that when the search was conducted, she was sleeping inside the room where the illegal drugs were found while accused Miguel was in another room.

These circumstances sufficiently lead to the conclusion that petitioner knew of the existence of the illegal drugs in her room and had constructive possession of the seized illegal drugs.

Petitioner cannot feign ignorance of the existence of the illegal drugs since she admittedly has full access to the room and cabinet. Her disclaimer is simply unpersuasive. Her mere denial is insufficient to overcome the presumption of ownership.<sup>46</sup> It is well established that the defense of alibi or denial, in the absence of convincing evidence, is invariably viewed with disfavor by the courts for it can easily be concocted, especially in cases involving the Dangerous Drugs Act.<sup>47</sup>

Section 8, Rule 126 of the Revised Rules on Criminal Procedure provides that:

SEC. 8. *Search of house, room, or premises to be made in presence of two witnesses.* — No search of a house, room, or any other premises shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality.

In *People v. Go*,<sup>48</sup> we clarified that the Rules of Court clearly and explicitly establishes a hierarchy among the witnesses in whose presence the search of the premises must be conducted. Thus, a search under the strength of a warrant is required to be witnessed by the lawful occupant of the premises sought to be searched.<sup>49</sup> Only upon their absence may two (2) persons of sufficient age and discretion residing in the same locality be made to stand as their replacements.<sup>50</sup> This is the rule notwithstanding that the PNP New Rules on Engagement makes it mandatory the presence of at least two witnesses during the conduct of the search.

As between the Revised Rules on Criminal Procedure and the PNP New Rules on Engagement, the former shall prevail. The power of the Court to promulgate rules emanates from Section 5 paragraph 5 of Article VIII of the 1987 Constitution, that is:

---

<sup>45</sup> Id.

<sup>46</sup> *People v. Macabare*, 613 Phil. 474, 484 (2009) citing *People v. Hindoy*, 410 Phil. 6 (2001).

<sup>47</sup> Id. citing *People v. Del Mundo*, 418 Phil. 740 (2001).

<sup>48</sup> *Bulautan v. People*, G.R. No. 218891, September 19, 2016 citing *People v. Go*, 457 Phil. 885 (2003).

<sup>49</sup> Id.

<sup>50</sup> Id.

(5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court. [Emphasis ours.]

Section 8, Rule 126 of the Revised Rules on Criminal Procedure which requires the presence of the lawful occupant of the place to be searched or any member of his or her family; and in the absence thereof, the presence of at least two witnesses of sufficient age and discretion residing in the same locality, enforces and protects Section 2, Article III of the 1987 Constitution which speaks of the right against unreasonable search and seizure, to wit:

SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Thus, the power of the Court to promulgate rules for the protection and enforcement of constitutional rights as sanctioned by the 1987 Constitution cannot be encroached upon by the executive department, more specifically, by the issuance by the PNP of its Rules of Engagement.

Lastly, as regards the integrity and evidentiary value of the confiscated illegal drugs, we hold that the same were properly preserved by the police officers. It must be pointed out that the illegal act charged against petitioner Emily and accused Miguel and Josefina, that is, illegal possession of illegal drugs, occurred in 1999 which was then punishable under the *Dangerous Drugs Act of 1972*. At that time, the requirements under Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of R.A. No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*, were not yet effective.

It would thus be unfair to apply the foregoing provision in this case and require strict compliance from the police officers since both R.A. No. 9165 and its IRR were not yet effective at the time the illegal acts herein were committed. The *Dangerous Drugs Act of 1972* did not contain such requirement for the strict compliance of the police officers.

In this case, a review of the records would show that the identity and evidentiary value of the illegal drug seized had been sufficiently preserved. An inventory of the confiscated items was prepared and acknowledged by accused Josefina. It was properly marked by SPO2 Conlu and brought by PCI Tambungan to the crime laboratory for examination. PO2 Tan also took photographs during the search and seizure, however, the film was exposed and was damaged. Thus, the said

photographs were not printed and submitted to the court as evidence. As testified by PO2 Conlu:<sup>51</sup>

FISCAL

Q: So when you searched the room, you were with Major Tambungan?

A: Yes, ma'am.

Q: You mentioned... By the way, Mr. Witness, again, where did you recover that plastic bag?

A: In a cabinet in the bedroom of the spouses on the third floor.

Q: And when you recovered that, what else did you do, if any?

A: We apprised them of their constitutional rights and informed them of their violation.

Q: After informing them of their rights, what did you do?

x x x x

A: They were brought downstairs by Major Tambungan together with the recovered item.

Q: After that what happened?

A: Then we brought them to our office together with the recovered item.

Q: And what did you do with this recovered item?

A: We sent it to the PNP Crime Lab for examination.

Q: When you say "we", who are these persons you are referring to?

A: Major Tambungan, ma'am.

Q: Who in particular submitted the specimen to the crime laboratory?

A: Major Tambungan.

Q: If you will be able to see that plastic bag containing this white crystalline substance, will you be able to identify the same?

A: Yes, ma'am.

Q: And were you able to find out what x x x the contents [were] or what was that white crystalline substance which you recovered from the room?

x x x x

A: Yes, ma'am.

Q: What did you find out?

A: It was tested positive for methamphetamine hydrochloride.<sup>52</sup>

The testimony of PO2 Conlu has been corroborated by the testimony P/C Insp. Tambungan, viz..<sup>53</sup>

FISCAL CHUA CHENG

<sup>51</sup> Records, Vol. 1, TSN, March 22, 2000, pp. 21-25.

<sup>52</sup> Id.

<sup>53</sup> Id. Vol. 1, TSN, October 23, 2000, pp. 9-14.

Q: You said that you conducted the search in the house of Aling Pining?

A: Yes, ma'am.

Q: What is the result of that search?

A: We were able to recover the alleged shabu at that third floor occupied by Emily Estores and Miguel Canlas, Ma'am.

Q: Who personally recovered that?

A: SPO2 Conlu, Ma'am.

Q: Upon recovery of that item, what did you do?

A: I instructed him to, Hawakan niya, Ma'am at ilagay sa isang plastic na safe, the stuff.

Q: What happened next, if any?

A: After the shabu, I informed them that this item is the illegal drugs and we arrested the three (3) who were named in the Search Warrant, Ma'am.

Q: Did you inform them of their rights?

A: Yes, Ma'am.

Q: After informing them of their rights, what happened next, if any?

A: We brought them to our office, Ma'am.

Q: Where?

A: At the Ninoy Aquino International Airport (NAIA).

Q: How about the recovered items?

A: Together with the recovered items, Ma'am.

Q: What did you do with the recovered items?

A: After that we [made a] request for laboratory examination, Ma'am.

Q: You mentioned Mr. Witness that you made a request for laboratory examination?

A: Yes, Ma'am.

Q: Showing to you Exhibit F, will you please go over the same and tell us what relation has this request for laboratory examination?

A: This is the one, Ma'am. This is the request for laboratory examination to the PNP Crime Laboratory

Q: There is a signature above the typewritten name Christopher E. Tambungan, whose signature is this?

A: My signature, Ma'am.

x x x x

Q: Mr. Witness, on this document also marked as Exhibit F there is a stamp received by the PNP Crime Laboratory and across, delivered by: PCI Tambungan. Do you know who is this PCI Tambungan?

A: I was the one who brought that, Ma'am.

x x x x

Q: Mr. Witness, you said that you were the one who made this request?

A: Yes, Ma'am.

Q: Stating herein that, for laboratory examination?

A: Yes, Ma'am.

Q: Now, who delivered the items stated in this laboratory request to the PNP Crime Laboratory?

A: I was the one who delivered the stuff, Ma'am.

x x x x

Q: Do you have any proof that you were the one who delivered the specimen?

A: This is the one, Ma'am delivered by.

x x x x

Q: Do you know who is this PCI Tambungan mentioned in this delivered by?

A: I'm the one, Ma'am.

x x x x

Q: After delivering this specimen for laboratory examination, do you know if the specimen was actually examined?

A: Yes, Ma'am.

Q: Were you able to get the result of that examination?

A: Yes, Ma'am.

x x x x

Q: Now, after you were able to, were you able to get a copy of the result?

A: Yes, Ma'am.

Lastly, the prosecution presented PI Zata, the forensic chemist who received and examined the confiscated illegal drug, to wit:<sup>54</sup>

FISCAL CHUA CHENG

Q: Stated in this request is item #2 wherein one (1) plastic bag containing white crystalline substance of suspected methamphetamine hydrochloride (shabu) marked as AC, more or less one (1) kilo was submitted to your office?

A: Yes, ma'am.

Q: Who x x x received that plastic bag containing while crystalline substance?

A: I personally received it, ma'am.

Q: Where is that evidence?

A: It's now in my possession, ma'am.

Q: Now Mr. Witness, What (sic) proof do you have that you were the one who personally received that specimen?

A: I placed my name in the stamp mark ma'am.

x x x x

Q: Now Mr. Witness, upon receipt of this specimen stated in Exhibit F, what did you do?

A: I record it in our logbook and placed the corresponding case report No. D-3338-99.

<sup>54</sup> Id. Vol. 1, TSN, June 29, 2000, pp. 14-25.

Q: After recording it in your logbook, what did you do?

A: I conducted first the physical examination of the evidence submitted and placed a masking tape sealed transparent plastic bag with markings letter AC.

Q: How did you conduct the physical examination?

A: I described the specimen, the physical characteristics, the physical appearance of the evidence submitted which is one (1) masking tape sealed transparent plastic bag containing the weight of 1,120.6 grams of white crystalline substance with markings AC.

Q: You earlier mentioned that this plastic bag was sealed with a masking tape?

A: Yes, ma'am.

Q: Is this the masking tape at that time?

A: Yes, ma'am.

Q: There are markings on this masking tape. Do you know who placed this markings? (sic)

A: No, ma'am. This was previously marked by the apprehending officer.

Q: On the other side of this masking tape whose marking reading "D-3338-99 EEZ", Do you know who placed this markings? (sic)

A: Yes, ma'am. I was the one who placed this markings. (sic)

x x x x

Q: Now Mr. Witness, after taking the physical characteristics of this specimen, what else did you do?

A: I opened the plastic bag, ma'am and I weighed the specimen, then subject to the chemical examination.

x x x x

Q: What examination did you conduct?

A: After [measuring] the weight of the specimen, I took x x x representative samples of these three (3) at random sampling. I used the Simon's Test, which is a specific test for methylamphetamine hydrochloride.

x x x x

Q: After conducting the test, what did you find out?

A: I found out that the specimen yielded a positive result for methylamphetamine hydrochloride indicating the deep blue color and also the known standard. It also gives the blue color.

x x x x

Q: After conducting this Confirmatory Examination, what did you find out?

A: I found out that the specimen submitted gave a positive result for methylamphetamine hydrochloride.

x x x x

Q: Did you reduce your findings in writing?

A: Yes, ma'am. I prepared the initial laboratory report.

x x x x

Q: After preparing this initial report, what else did you do?

A: I prepared the final report, ma'am.<sup>55</sup>

Based on the foregoing, the evidence clearly shows that petitioner was caught in constructive possession of illegal drugs found in her room by virtue of a search and seizure conducted by the police officers. The testimonies of the SPO2 Conlu and PCI Tambungan also proved that the identity and evidentiary value of the confiscated illegal drugs were duly preserved. The testimonies of the police officers were consistent with and corroborated each other.

Against the positive testimonies of SPO2 Conlu, PCI Tambungan and PI Zata and the overwhelming evidence presented by the prosecution, petitioner's plain denial of the crime charged, unsubstantiated by any credible and convincing evidence, must simply fail. Hence, We uphold the presumption of regularity in the performance of official duties of the police officers as the defense failed to present clear and convincing evidence that the police officers did not properly perform their duty or that they were inspired by an improper motive. Undeniably, petitioner is guilty of violating Section 16, Article III in relation to Section 2(e)(2), Article 1 of R.A. No. 6425 as amended by R.A. No. 7659.

Lastly, petitioner had written several letters to this Court alleging that she had been given a colonist status of the Bureau of Corrections (BOC). Thus, she contends that as per Section 3 of R.A. No. 10592,<sup>56</sup> she is qualified for a deduction from her imprisonment an allowance for good conduct. Petitioner was committed to prison upon her arrest in 1999 and has been in prison until her conviction of violation of Section 16, Article III in relation to Section 2(e)(2), Article 1 of R.A. No. 6425 as amended by R.A. No. 7659 with a corresponding penalty of *reclusion perpetua* and a fine of ₱1,000,000.00. Nonetheless, the pertinent provisions of the RPC and R.A. No. 10592 afford petitioner Emily the privilege to avail of the benefits of the good conduct time allowance provided she complied with the requirements for it. Thus, the Director General of the BOC and the Chief of the Bureau of Jail Management and Penology are to be directed to compute the time allowance as regards petitioner, if any, and to submit a report and recommendation to this Court within fifteen (15) days from receipt of this Decision.

**WHEREFORE**, the Petition for Review on *Certiorari* is **DENIED**. The August 25, 2009 Decision and May 17, 2010 Resolution of the Court of Appeals in CA-G.R. CR-HC No. 02794 are hereby **AFFIRMED**.

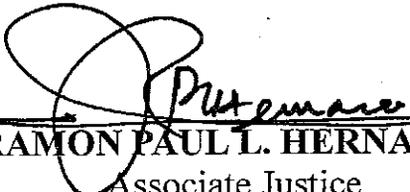
The Director General of the Bureau of Corrections and the Chief of the Bureau of Jail Management and Penology are **REQUIRED** to **COMPUTE** the time allowance due to petitioner Emily, if any, and thereafter, to **SUBMIT** their report and recommendation to this Court within fifteen (15) days from receipt of this Decision.

---

<sup>55</sup> Id.

<sup>56</sup> AN ACT AMENDING ARTICLES 29, 94, 97, 98 AND 99 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE.

**SO ORDERED.**

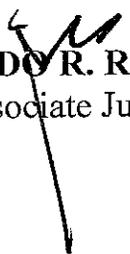
  
**RAMON PAUL L. HERNANDO**  
Associate Justice

WE CONCUR:

  
**MARVIC M. V. F. LEONEN**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

**ATTESTATION**

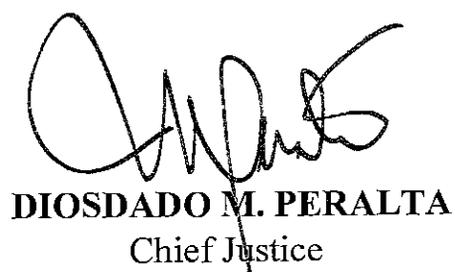
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M. V. F. LEONEN**  
Associate Justice

**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.



**DIOSDADO M. PERALTA**  
Chief Justice