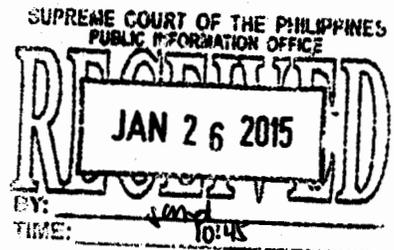




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated December 3, 2014, which reads as follows:

“G.R. No. 206914 (*People of the Philippines vs. Dennis Arellano y Flores alias “Macky”*). – The records of this case were elevated to the Court pursuant to Resolution¹ dated October 30, 2012 issued by the Court of Appeals (CA) in CA-G.R. CR-HC No. 00934 giving due course to the Notice of Appeal² dated June 25, 2012 filed by Dennis Arellano alias “Macky” (accused-appellant).

Both the Office of the Solicitor General (OSG) and the Public Attorney’s Office submitted their respective Manifestations³ stating that they were adopting the arguments they had previously proffered in the briefs⁴ filed with the CA:

As summed up by the OSG, the prosecution’s version of the facts is as follows:

At 5:30 o’clock in the afternoon of July 21, 2003, a police team composed of PO[2] Randy Rentillo (Rentillo), PO1 Joseph Marcel Rojo and SPO1 Arnold Yusay, sat along a cement road a few meters away from the residence of accused-appellant located at Brgy. III, Poblacion, Himamaylan City, Negros Occidental. The policemen were there, together with elements of the Philippine Drug Enforcement Agency (PDEA), to conduct a buy-bust operation on accused-appellant. During the buy-bust operation, they saw their civilian agent give two marked one-hundred peso bills [(P100.00)] to accused-appellant who accepted [them] and [who] handed at the same time two small sachets of suspected *shabu* to the civilian agent. After the consummation of the sale, the policemen hurriedly approached the two. Accused-appellant was able to run away but the police caught him a few meters away. Rentillo introduced himself as a policeman assigned at the Himamaylan Police Station[.] Accused-appellant was informed of the reason for his arrest. Accused-appellant was then bodily-searched. Aside from the [two]

¹ CA rollo, p. 118.
² Id. at 116-117.
³ Rollo, pp. 21-23, 29-30.
⁴ CA rollo, pp. 82-98, 47-64.

sachets of *shabu* recovered by the civilian agent during the buy-bust, the police also recovered the marked Php100.00 bills and [one] sachet of suspected *shabu* from the trousers of accused-appellant. The three confiscated sachets of *shabu* and accused-appellant were brought to the Himamaylan City Police Station for recording purposes. The incident was listed as Entry No. 2003-4059 in the official logbook of said police station. The next day, July 22, 2003, the confiscated *shabu* were brought to the PNP Crime Laboratory for laboratory examination.

Rentillo identified in court the two pre-marked Php100.00 bills with serial numbers CU262695 and AD540905. He had placed his initials at the middle of the signature at the end of the side of the bills.

Forensic examination of the confiscated *shabu* was conducted by SP/Insp. Alexis Guinanao of the PNP Crime Laboratory Provincial Office 6, Bacolod City whose findings thereon are found in Chemistry Report No. D-403-2003 x x x. Said report declared that the confiscated specimens positively contained *shabu*, a dangerous drug.⁵

The defense, on the other hand, offered the testimonies of the accused-appellant and of three of his companions, who claimed that they were about to have a drinking spree at around 6:00 p.m. of July 21, 2003. A vehicle stopped in front of the accused-appellant's house and armed men in civilian clothes, among whom was Police Officer 2 Randy Rentillo (PO2 Rentillo), alighted therefrom. The accused-appellant and his friends scampered away. PO2 Rentillo fired a shot and identified himself as a police officer. The accused-appellant, who had a leg injury, stopped on his tracks and he was frisked by PO2 Rentillo. Only ₱30.00 and nothing more was recovered from the accused-appellant, but PO2 Rentillo pointed his firearm at the former and forced him to admit possession of *shabu*. The accused-appellant was brought to the police station and detained thereat. The next day, he learned with surprise that he was being charged for selling *shabu* in a buy-bust operation.⁶

An Information for violation of Section 5, Paragraph 1⁷ of Republic Act (R.A.) No. 9165⁸ was filed against the accused-appellant before the Regional Trial Court (RTC) of Himamaylan City, Negros Occidental and raffled to Branch 55.

⁵ Id. at 86-88.

⁶ Rollo, pp. 7-9.

⁷ Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

⁸ 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.

On December 3, 2007, the RTC rendered a Decision⁹ convicting the accused-appellant of the offense charged and imposing upon him the penalty of life imprisonment and a fine of ₱500,000.00. The RTC explained that:

The commission of the offense of illegal sale of dangerous drugs requires merely the consummation of the selling transaction which occurred the moment the poseur[-]buyer receives the illegal drugs from the seller. In the instant case, the prosecution was able to prove x x x that the sale of illegal drugs was consummated and there was no violation of the constitutional rights of the [accused-appellant]. The police officers gave the [sic] detailed account[s] of how the sale was consummated. The testimonies of police officers involved in buy-bust operation deserve full faith and credit, given the presumption that they have performed their duties regularly. x x x Though the police asset or civilian agent was never presented in Court, his testimony may be dispensed with considering the confidential nature of his person. x x x.

In a last ditch [effort] to exculpate himself from conviction, the [accused-appellant] claimed that he was framed-up and the illegal drugs were planted by the police officers. For [the accused-appellant] to claim that he was framed-up, he must show to the Court, by clear and convincing evidence, that the police officers were motivated by ill-will and that [the accused-appellant has] known the police officers prior to the incident. x x x For the claim to prosper, [the accused-appellant] must therefore adduce clear and convincing evidence, which is wanting in the instant case.¹⁰

The accused-appellant assailed the RTC ruling before the CA claiming that: (a) the prosecution's failure to present the poseur-buyer as a witness was tantamount to suppression of vital evidence;¹¹ (b) it was not established that the sachets of *shabu* allegedly seized from the accused-appellant were immediately marked in his presence by the police officers;¹² (c) no photograph and physical inventory of the seized items were made by the police in the presence of the accused-appellant, a member of the media, a representative from the Department of Justice and a local elective official;¹³ and (d) the identity of the person, who had custody of the seized *shabu* after it was examined in the laboratory, was not disclosed.¹⁴

The OSG sought the dismissal of the appeal arguing that: (a) the defense had not ascribed any ill motive which could have impelled the police to fabricate charges against the accused-appellant;¹⁵ (b) the conduct of the accused-appellant and his companions of immediately running away when they saw the police officers alighting from a vehicle was indicative that illegal activities were indeed going on in the house then;¹⁶ (c) since PO2

⁹ Issued by Presiding Judge Franklin J. Demonteverde; CA rollo, pp. 65-72.

¹⁰ Id. at 71-72.

¹¹ Id. at 55-57.

¹² Id. at 59.

¹³ Id.

¹⁴ Id.

¹⁵ Id. at 90.

¹⁶ Id. at 91.

Rentillo already gave an eyewitness account of the incident, the testimony of the poseur-buyer would have been merely corroborative, hence, dispensable;¹⁷ (d) in *People v. Del Monte*,¹⁸ the Court ruled that the issue of the police's non-compliance with Section 21¹⁹ of R.A. No. 9165 cannot be raised for the first time on appeal;²⁰ (e) non-compliance with Section 21 of R.A. No. 9165 only affects the evidentiary value, but not the admissibility of the seized illegal drugs;²¹ and (f) the prosecution had amply proven that the integrity of the *shabu* and marked money were preserved from the time they were seized up to the time they were offered as evidence before the RTC.²²

The Decision²³ dated May 3, 2012 of the CA in CA-G.R. CR-HC No. 00934 affirmed *in toto* the RTC judgment. Citing *People v. Uy*,²⁴ the CA explained that the non-presentation before the trial court of the poseur-buyer in a buy-bust operation would only be fatal to the prosecution's cause if there is no other witness to the illicit transaction.²⁵ In the accused-appellant's case, PO2 Rentillo and the other members of the buy-bust team were just a few meters away from where the sale of the *shabu* took place. The CA likewise found as unmeritorious the accused-appellant's

¹⁷ Id. at 92.

¹⁸ 575 Phil. 576 (2008).

¹⁹ **Sec. 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia 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, and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

x x x x

(6) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former[.]

x x x x

²⁰ CA rollo, pp. 94-95.

²¹ Id. at 95.

²² Id. at 96-97.

²³ Penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Pampio A. Abarintos and Ramon Paul L. Hernando, concurring; id. at 104-115.

²⁴ 392 Phil. 773 (2000).

²⁵ Id. at 786, CA rollo, p. 112.

December 3, 2014

claim that the police had failed to comply with the requirements of Section 21 of R.A. No. 9165. Thus:

It has been consistently ruled that non-compliance with the requirements of Section 21 of Republic Act No. 9165 will not necessarily render the items seized or confiscated in a buy-bust operation, inadmissible. Strict compliance with the letter of Section 21 is not required if there is a clear showing that the integrity and the evidentiary value of the seized items have been preserved, *i.e.*, the items being offered in court as exhibits are, without a specter of doubt, the very same ones recovered in the buy[-]bust operation. Hence, once the possibility of substitution has been negated by evidence of an unbroken and cohesive chain of custody over the contraband, such contraband may be admitted and stand as proof of the *corpus delicti* notwithstanding the fact that it was never made the subject of an inventory or was photographed pursuant to Section 21 (1) of Republic Act No. 9165.

In the case at bar, the requirements of the law were substantially complied with and the integrity of the seized drugs recovered from accused-appellant intact; the chain of custody of the prohibited drugs taken from the accused-appellant was sufficiently established. As borne by the testimonies of the prosecution witnesses, after accused-appellant handed over the two (2) sachets of suspected *shabu* to the civilian asset in exchange for the two (2) One Hundred Peso marked bills, PO2 Rentillo and the rest of the buy-bust team, immediately swooped upon and arrested accused-appellant; after placing him under arrest, the accused-appellant was bodily searched and one (1) more sachet of suspected *shabu*, as well as the marked bills, were retrieved from his trousers; the accused-appellant and the confiscated items were brought to the Himamaylan Police Station where the incident was recorded in the blotter book by PO1 Rico Jungco. At the police station, the confiscated items were marked as "A" through "C"; thereafter, PO1 Joseph Rojo, Jr., one of the apprehending officers, delivered the three (3) sachets to the PNP Crime Laboratory Provincial Office, Bacolod City, whereat the three (3) marked sachets were received by P/Sr. Insp. Javier, RA and P/Insp. Alexis Abinion Guinanao, the Forensic Chemical Officer. After the qualitative examination conducted on the three (3) sachets was found positive for Methamphetamine Hydrochloride, it was kept in the custody of the PNP laboratory until it was presented in court, identified and testified to by the forensic chemical officer who conducted the laboratory examination.²⁶ (Citations omitted)

Unperturbed, the accused-appellant is before this Court insisting anew that he deserves to be acquitted.

There is no merit in the instant appeal.

As aptly cited by the OSG, *Del Monte* is emphatic that:

At the outset, it must be stated that appellant raised the police officers' alleged non-compliance with Section 21 of Republic Act No. 9165 for the first time on appeal. This, he cannot do. It is too late in the

²⁶

CA rollo, pp. 112-114.

day for him to do so. In *People v. Sta. Maria* in which the very same issue was raised, we ruled:

The law excuses non-compliance under justifiable grounds. However, whatever justifiable grounds may excuse the police officers involved in the buy-bust operation in this case from complying with Section 21 will remain unknown, because appellant did not question during trial the safekeeping of the items seized from him. Indeed, **the police officers' alleged violations of Sections 21 and 86 of Republic Act No. 9165 were not raised before the trial court but were instead raised for the first time on appeal. In no instance did appellant least intimate at the trial court that there were lapses in the safekeeping of seized items that affected their integrity and evidentiary value. Objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of objection. Without such objection he cannot raise the question for the first time on appeal.**²⁷ (Citations omitted and emphases in the original)

Besides, even if the Court were to overlook the accused-appellant's belated presentation before the CA of the issue of non-compliance by the police with Section 21 of R.A. No. 9165, the dismissal of the instant appeal is still in order.

It is settled that "findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors, gross misapprehension of facts and speculative, arbitrary and unsupported conclusions can be gathered from such findings."²⁸ The foregoing rule finds an even more stringent application where said findings are sustained by the CA.²⁹

In the case at bar, both the RTC and the CA found the testimonies of PO2 Rentillo and Police Inspector Alexis Abinion Guinanao credible. The prosecution was able to establish that the illegal transaction sale of *shabu* took place when the accused-appellant delivered two sachets of *shabu* to the poseur-buyer in exchange for the two ₱100.00-marked bills handed by the latter. The two sachets of *shabu* recovered from the poseur-buyer, and another sachet and the marked money seized from the accused-appellant were all brought to the police station. The details of the accused-appellant's arrest and the seizure of the items were entered into the logbook kept at the police station. The seized items were marked at the police station and thereafter brought to the Philippine National Police Crime Laboratory for examination. The contents of the sachet were positively identified as *shabu*.

²⁷ *People v. Del Monte*, supra note 18, at 585-586, citing *People v. Sta. Maria*, 545 Phil. 520, 534 (2007).

²⁸ Id. at 588.

²⁹ Id.

The seized items remained in the custody of the said laboratory up to the time that they were presented as evidence before the RTC.

No compelling grounds exist for this Court to depart from the foregoing findings.

The Court notes too that the accused-appellant did not ascribe and offer any proof to show ill motives on the part of the police which could have induced them to fabricate charges against him. Consequently, the presumption of a regular performance of lawful duties by the police stands.

The accused-appellant also claims that the non-presentation of the poseur-buyer as witness is fatal to the prosecution's cause.

The argument deserves short shrift.

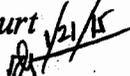
In *People v. Bates*,³⁰ the Court held that:

As to the failure of the prosecution to present other witnesses, the rule is settled that the prosecution is imbued with the discretion to choose whom to present as witnesses. The prosecution need not present each and every witness but only as may be needed to meet the quantum of proof necessary to establish the guilt of the accused beyond reasonable doubt. The testimonies of the other witnesses may, therefore, be dispensed with for being merely corroborative in nature. This Court has ruled that the non-presentation of corroborative witnesses would not constitute suppression of evidence and would not be fatal to the prosecution's cause. x x x.³¹ (Citations omitted)

In the case before this Court, PO2 Rentillo rendered a credible eyewitness account of the illegal sale of *shabu* involving the accused-appellant. The testimony of the poseur-buyer, if offered, would have been merely corroborative, but not essential. Its absence is not fatal to the prosecution's cause.³²

IN VIEW OF THE FOREGOING, the instant appeal is **DISMISSED.**" (Jardeleza, J., no part in view of participation in the Office of Solicitor General; Sereno, C.J., designated additional member per Raffle dated October 20, 2014.)

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court 12/21/14


³⁰ 448 Phil. 109 (2003).

³¹ Id. at 122.

³² CA rollo, pp. 111-112.

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