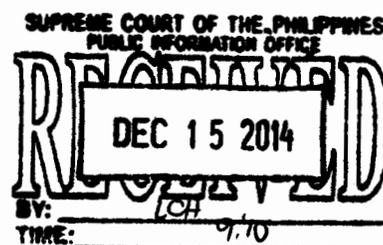




Republic of the Philippines  
Supreme Court  
Manila  
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **November 19, 2014** which reads as follows:*

**“G.R. No. 207951 (*People of the Philippines v. Teresita Rivera y Dumo*).**— We resolve the appeal filed by accused Teresita Rivera y Dumo (appellant) from the Court of Appeals (CA) Decision dated 8 March 2013 in CA-G.R. CR-H.C. No. 05113.<sup>1</sup>

THE FACTS

Considering that there are no factual issues in this case, we adopt the CA’s findings of fact as follows:

On 01 May 2009, a confidential informant arrived at the office of the Philippine Drug Enforcement Agency to report on accused-appellant’s selling of illegal drugs in San Nicolas Central, Agoo, La Union. Upon learning of this information and upon verifying that accused-appellant’s name is in the “order of battle” list which showed that she had been previously involved in an illegal drug activity, Regional Director Roberto S. Opena created a team to conduct an anti-narcotics operation in the reported area. SI2 Ancheta was designated as the poseur-buyer while PO1 Bersola was assigned as the immediate back-up. Making up the rest of the team were Major Buslotan, Anabel Cabarles, Regie Ramos, Master Soriano, PO3 Roy Allan Abang, a driver, PO2 Perez, SPO1 Casim, PO3 Espejo, and PO1 Renon who were designated as perimeter back-ups. SI2 Ancheta placed her initials, LCA, on the buy-bust money she was given consisting of one (1) Five Hundred (₱500.00)-Peso bill, one (1) Two hundred (₱200.00)-Peso bill, and one (1) One Hundred (₱100.00)-Peso bill.

After two unsuccessful attempts, SI2 Ancheta, PO1 Bersola, and the confidential informant went back to the accused-appellant’s house in the evening of the same day this time finding accused-appellant standing outside. The three (3) approached accused-appellant with the confidential informant introducing SI2 Ancheta as a buyer of shabu.

<sup>1</sup> *Rollo*, pp. 2-11; Penned by CA Associate Justice Rodil V. Zalameda and concurred in by Presiding Justice Andres B. Reyes, Jr. and Associate Justice Ramon M. Bato, Jr.

When SI2 Ancheta handed over the marked money to buy shabu, accused-appellant handed over four (4) pieces of plastic sachets which, upon scrutiny, contained white crystalline substance presumed to be shabu. SI2 Ancheta and PO1 Bersola then arrested accused-appellant and informed her of her constitutional rights. SI2 Ancheta then marked the four (4) plastic sachets with "A (LCA)", "A-1 (LCA)", "A-2 (LCA)," and "A-3 (LCA)." An inventory was thereafter conducted by SI2 Ancheta together with PO1 Bersola and the other members of the team, Major Buslotan, PO1 Fesway, IO2 Ricky Ramos, and IO2 Marilyn Natividad.

The team conducted the inventory in their office with the seized evidence presented to representatives of both the Department of Justice and the media who after ascertaining that the evidence on hand were the same ones entered in the certificate of inventory, signed the same. Moreover, the above proceedings were documented through photographs. After the necessary documents were prepared, the evidence was submitted to the crime laboratory for examination which evidence yielded positive for shabu, a dangerous drug.<sup>2</sup>

The defense presented its own version of facts:

In the evening of 1 May 2009, accused-appellant was inside her house located at San Nicolas Central, Agoo, La Union when six (6) armed persons barged in. She was unable to call for help because their firearms were pointed at her. She was immediately frisked and taken to the PDEA office in San Fernando, la Union, where she was investigated by two (2) persons, without the assistance of counsel. The next day, she was photographed standing behind a table on which were placed cash and plastic sachets, which items were not obtained from her person. She further added that the markings on the specimens were done in the office of the PDEA at San Fernando.<sup>3</sup>

### THE RTC RULING

Appellant Rivera was charged in Crim. Case No. A-5743 with violating Section 5, Article 11 of Republic Act (R.A.) No. 9165 for the illegal sale of prohibited drugs. Thereafter, a full trial on the merits ensued before the Regional Trial Court (RTC) of Agoo, La Union, Branch 32.

On 29 June 2011, the RTC promulgated its Decision finding appellant Rivera guilty beyond reasonable doubt of the crime as charged.<sup>4</sup> The dispositive portion of the RTC Decision reads:

**WHEREFORE**, the Court finds accused Teresita Rivera y Dumo guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, and hereby sentences her to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00.

<sup>2</sup> Id. at 4-5.

<sup>3</sup> Id. at 5-6.

<sup>4</sup> *CA rollo*, pp. 15-20. The Decision dated 29 June 2011 in Criminal Case No. A-5743 was penned by the Hon. Jennifer A. Pilar, Presiding Judge of the Regional Trial Court of Agoo, La Union, Branch 32.

The Branch Clerk of Court is directed to transmit the four (4) plastic sachets subject matter of this case to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

**SO ORDERED.**<sup>5</sup>

Appellant Rivera appealed her conviction to the CA.<sup>6</sup>

#### THE COURT OF APPEALS RULING

In her appeal before the CA, appellant argued that the trial court erred in convicting her, because the prosecution failed to prove her guilt beyond reasonable doubt.<sup>7</sup>

On 8 March 2013, the CA, through its First Division, promulgated a Decision affirming the conviction of appellant by the RTC. The appellate court found that the chain of custody of the evidence was unbroken. Thus it ruled that the integrity of the evidence had not been compromised, and that the buy-bust operation had all the signs of a legitimate police action.

The CA further found that the prosecution had established all the elements necessary for appellant's conviction of the crime of illegal sale of prohibited drugs.

On the other hand, the CA considered as weak the defense of denial and *alibi* proffered by appellant. It brushed aside her allegations of frame-up and extortion. Likewise, it gave no credence to her ascription of ill motive on the part of the police officers involved in the buy-bust operations. The appellate court noted that she was caught in *flagrante delicto*; hence her identity as the seller of the prohibited drug was devoid of any doubt.

The dispositive of the CA Decision reads:

**WHEREFORE**, the instant appeal is **DENIED**. Accordingly, the Decision of Branch 32, Regional Trial Court of Agoo, La Union, dated 29 June 2011, is hereby **AFFIRMED IN TOTO**.

**SO ORDERED.**<sup>8</sup>

#### ISSUES

The Court required appellant to file a supplemental brief, and which she complied with this requirement on 3 January 2014.<sup>9</sup> In her brief, she raised as issue the affirmation of her conviction by the CA.

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<sup>5</sup> Id. at 20.

<sup>6</sup> Id. at 21-22.

<sup>7</sup> Id. at 40-56.

<sup>8</sup> Id. at 11.

<sup>9</sup> Id. at 17.

In this appeal, appellant questions her conviction on the grounds that the elements of the illegal sale were not sufficiently established. She argues that the witnesses for the prosecution failed to present clear and convincing evidence that would support her conviction.

Further, appellant points out that the chain of custody was broken and, therefore, the integrity of the evidence has been violated.<sup>10</sup>

### OUR RULING

We **DENY** the appeal for lack of merit.

We have gone through the records of the case and found no reason to deviate from the findings and ruling of the CA.

#### ***The illegal sale of prohibited drugs was established.***

For a successful prosecution of the illegal sale of dangerous drugs, proof that the transaction or sale actually took place is material, coupled with the presentation in court of the *corpus delicti*.<sup>11</sup>

In the instant case, we agree with the CA that the prosecution has proven the existence of all the elements of an illegal sale of dangerous drugs. We observed that the trial and the appellate courts have congruent findings on this matter.

The RTC found that the prosecution had discharged its burden of proving the elements of the offense, as follows:

In the prosecution for illegal sale of dangerous drugs, what is material is proof that the transaction or sale actually took place, coupled with the presentation in court of the traded substance – the object evidence which is the core of the *corpus delicti* (*People vs. Santos*, 555 SCRA 578). And, these requirements have been sufficiently established in the instant case. SI2 Lanibelle C. Ancheta, the poseur buyer, related in Court how she was able to buy four (4) heat-sealed plastic sachets of methamphetamine hydrochloride from the accused. Moreover the object was presented in Court and duly identified by Ancheta.<sup>12</sup>

On appeal, the CA found the following facts:

From the testimony of the prosecution witnesses, all the elements necessary for the conviction of accused-appellant for illegal sale of dangerous drugs have been proven by the prosecution. SI2 Ancheta, as the poseur-buyer, asked to buy Eight Hundred (₱800.00) Pesos worth of

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<sup>10</sup> Id. at 23-32.

<sup>11</sup> *People v. Bul-Lalayao*, G.R. No. 196967, 31 March 2014.

<sup>12</sup> CA rollo, pp. 18-20.

illegal drugs with the previously marked money she brought with her. Accused-appellant then gave her four (4) plastic sachets contained Methamphetamine Hydrochloride, a dangerous drug. There was an actual exchange of the marked money and contraband. Thereupon, accused-appellant was arrested. Clearly, the prosecution was able to show that the sale of an illegal drug actually took place.<sup>13</sup>

Appellant proffered the defenses of denial and frame-up, but these were brushed aside by both the RTC and the CA. The courts were not swayed by her arguments. They similarly ruled that the evidence for the prosecution was credible and sufficient to support her conviction. We have no reason to disturb the findings of the CA in its assailed Decision.

Also, we agree with the CA ruling that, considering the failure of appellant to ascribe ill motive on the part of the police officer who arrested her during the buy-bust operation, there is a presumption of regularity in the performance of their duties. Appellant's self-serving and uncorroborated denial cannot overcome this presumption.

***The chain of custody was unbroken.***

On the issue of whether or not the chain of custody was broken, appellant argues that the buy-bust team violated Section 21 of the Implementing Rules and Regulations (IRR) of R.A. 9165. She asserts that its noncompliance with Section 21 entitles her to an acquittal.

Based on the congruent findings of the RTC and the CA, we are unconvinced by appellant's argument.

We affirm the finding of the CA that the chain of custody of evidence was unbroken. It follows that the integrity and evidentiary value of the seized drug were preserved.

The RTC's factual findings on this matter are as follows:

Generally, non-compliance with Section 21 will not render an accused's arrest illegal or the items seized or confiscated from the accused inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as they would be utilized in the determination of the guilt or innocence of the accused. (*People v. Teodoro*, G.R. No. 185164, June 22, 2009).

In the instant case, the prosecution was able to show that the chain of custody was never broken. A careful review of the record supports this finding. Following the successful drug transaction with the accused, SI2 Lanibelle C. Ancheta marked each of the four (4) plastic sachets of shabu from the accused at San Nicolas Central, Agoon, La Union, up to its submission to the PNP Crime Laboratory, the specimens were in the custody of Ancheta. At the PNP Crime Laboratory, the letter-

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<sup>13</sup> Id. at 9-10.

request and the specimens were received by PO2 Bucasas in the presence of PSI Anamelisa Bacani. And, after checking that the specimens submitted tallied with the entries in the letter-request, Bucasas entered its submission to their logbook, then gave it to Bacani. Before proceeding to examine the specimens, Bacani noted the pentel pen markings on each of the four sachets, "A" LCA; "A-1" LCA; "A-2 LCA; and "A-3" LCA. Qualitative examination conducted on the specimens gave positive result to the test of methamphetamine hydrochloride, a dangerous drug. After the examination, Bacani sealed each sachets with a masking tape, put markings on it "D-036-09, A, ASB, 02 May 09" and then placed it inside a brown short envelope, secure it with a masking tape and placed her markings "D-036-03, "A", 2 May 2009 ASB" and her signature on the other side of the envelope.

During trial, Ancheta was able to identify the shabu subject matter of the this case through the markings she made on the four (4) sachets she bought from the accused.

What is more, the integrity of the evidence is presumed to be preserved unless there is a showing of bad faith, ill will, or proof that the evidence has been tampered with. The accused has the burden to show that the evidence was tampered or meddled with to overcome a presumption of regularity in the handling of exhibits by public officer. The accused failed in this respect.

In the absence of proof of motive to falsely impute a crime as serious as drug pushing against the accused, the presumption of regularity in the performance of official duty shall prevail over the accused' self-serving and uncorroborated denial.<sup>14</sup>

The CA affirmed the Decision of the lower court based on the latter's similar, detailed factual finding, to wit:

In the case at bar, there was substantial compliance with the law and the integrity and evidentiary value of the drugs seized were preserved. The chain of custody of the drugs subject matter of the case was established by the testimonies of the witnesses as not to have been broken. The factual milieu of the case reveals that after SI2 Ancheta had obtained the prohibited drugs from the accused-appellant, the latter was immediately arrested. SI2 Ancheta marked the seized sachets with "A LCA", "A-1 LCA", "A-2 LCA," and "A-3 LCA". Accused-appellant was then brought to the PDEA office for investigation. Thereafter, the plastic sachets were brought by SI2 Ancheta to the PNP Crime Laboratory in Camp Florendo, Parian, San Fernando City, La Union with the request letter dated 2 May 2009 for laboratory examination to determine the presence of any prohibited drug on the specimens submitted. As per Chemistry Report No. D-036-09, the specimens submitted contained Methamphetamine hydrochloride, a dangerous drug. The marked items were offered in evidence as Exhibit "I".

In reiteration, even if there is a failure to comply with the requirement of Section 21(1) of R.A. No. 9165, the same is not fatal for as ruled by the Court in *People vs. Rosialda*, as long as the chain of custody remains unbroken, even though the procedural requirements

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<sup>14</sup> Id. at 19-20.

provided for in Section 21 of R.A. No. 9165 was not faithfully observed, the guilt of the accused-appellant will not be affected.

Accused-appellant would like to impress upon US that contrary to what SI2 Ancheta testified, the marking of the evidence was not done at the scene of the crime but in the office of the PDEA in San Fernando. Even if the marking was not immediately made at the crime scene, it does not automatically impair the integrity of the chain of custody as the integrity and evidentiary value of the seized items have been preserved. The marking of the seized items at the police station and in the presence of the accused-appellant was sufficient compliance with the rules on chain of custody. Marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.<sup>15</sup>

From the above, we find that the arresting team substantially complied with the procedural requirements under Section 21 of the IRR of R.A. 9165. Jurisprudence has consistently held that substantial compliance with the procedural aspect of the chain of custody rule does not necessarily render the seized drug items inadmissible.<sup>16</sup> Thus, we see no cogent reason to disturb the assailed Decision of the CA.

***The penalties imposed were proper.***

In its Decision dated 29 June 2011, the RTC sentenced appellant to suffer life imprisonment and to pay a fine of ₱500,000. We find these penalties to be in order and proper, as they are in accordance with Section 5 of R.A. 9165.<sup>17</sup>

**WHEREFORE**, from the foregoing, we affirm in all respects the assailed Court of Appeals Decision dated 8 March 2013 in CA-G.R. CR-H.C. No. 05113. No costs.

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257

<sup>15</sup> Rollo, pp. 8-9.

<sup>16</sup> *People v. Hambora*, G.R. No. 198701, 10 December 2012, 687 SCRA 653.

<sup>17</sup> 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. (*Comprehensive Dangerous Drugs Act of 2002, Republic Act No. 9165 [2002]*)

**SO ORDERED.” BERSAMIN, J.**, on official travel; **VELASCO, JR., J.**, designated acting member per S.O. No. 1870 dated November 4, 2014.

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court

**257**

The Solicitor General (x)  
Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CR H.C. No. 05113)

The Hon. Presiding Judge  
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