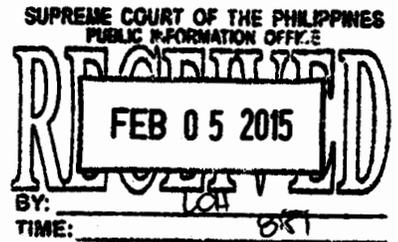




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated December 10, 2014, which reads as follows:

“G.R. No. 211679 (*People of the Philippines vs. Yusuf Benasing y Bawa and Soraida Benasing y Bawa*). – This is an appeal of the Court of Appeals Decision dated November 22, 2013, in CA-G.R. CR-H.C. No. 05357, affirming *in toto* the Decision dated February 8, 2011 of the Regional Trial Court (RTC), Branch 57 in Angeles City, in Criminal Case Nos. DC 03-274-75.

Accused-appellants Yusuf Benasing y Bawa and Soraida Benasing y Bawa were charged of violating Sections 5 and 11 of Republic Act No. (RA) 9165. The accusatory portions of the separate Informations respectively read:

1. Criminal Case No. DC 03-274 Yusuf Benasing and Soraida Benasing:

That on or about the 27th day of May 2003 in the City of Angeles, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, did then and there willfully, unlawfully and feloniously sell and/or deliver to a poseur buyer one (1) small transparent plastic sachet containing more or less TWENTY HUNDREDTHS (0.20) OF A GRAM OF SHABU (Methamphetamine Hydrochloride), which is a dangerous drug, without authority whatsoever.

CONTRARY TO LAW.

2. Criminal Case No. DC 03-275 (Yusuf Benasing)

That on or about the 27th day of May 2003 in the City of Angeles, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously have in his possession and custody and control two (2) pieces of transparent plastic sachets weighing a total of more or less TWO (2.0) GRAMS OF SHABU (Methamphetamine Hydrochloride), which is a dangerous drug, without authority whatsoever.

CONTRARY TO LAW.

Accused-appellant pleaded not guilty upon arraignment.

The accused, upon their arraignment on July 7, 2003, pleaded not guilty. During the pre-trial, the prosecution asked for stipulations and the defense admitted the following:

1. The identity of both accused;
2. That they are spouses;
3. That they were both arrested on May 27, 2003, inside the compound of their residence located at 3868 R.D. Reyes St., Brgy. Lourdes, Northwest Angeles City; and
4. That at the time of the incident, the police officers entered the residence of the accused without any warrant of arrest or search warrant, but with qualification that the police did not enter the residence but only the compound.

The prosecution presented PO2 Hersologo Trivino and PO1 Wendy Sahagun, while the defense presented Soraida Benasing and Yusuf Benasing.

The prosecution's version of the facts is as follows: PO2 Trivino testified that at around 10:30 p.m. on May 27, 2003, their Chief, Colonel Eden Reyes, was giving him and his fellow officers, PO1 Wendy Sahagun, Insp. Ellaine Villasis, Jerry Espadera, and Vital, a briefing about a couple selling *shabu* at R.D. Reyes St., Brgy. Lourdes, Northwest Angeles City. Col. Reyes provided two (2) ₱100 bills marked money, then the team and their asset proceeded to the target area. They entered the compound where accused-appellants Yusuf and Soraida were staying. The informant introduced PO2 Trivino, who acted as the poseur buyer, to Yusuf Benasing. Yusuf Benasing gave PO2 Trivino a plastic sachet in exchange for the ₱200 marked money, which he handed to his wife Soraida Benasing, who in turn placed it in her right pocket. As soon as the exchange was done, PO2 Trivino gave the pre-arranged signal to PO1 Wendy Sahagun, "*Weng, halika!*"; and the rest of the team entered and arrested the accused-appellants. The police officers frisked Yusuf Benasing and found two (2) more plastic sachets of white substance in his possession, while they found the marked money in the pocket of Soraida. PO2 Trivino marked the sachet with the initials "HAT," while the marked money and the two (2) sachets subsequently found in Yusuf's possession, with the initials "WPS" by PO1 Sahagun. Sahagun later issued a confiscation receipt in their office while Jerry Espadera issued a certificate of field test.

The couple denied the accusation against them. Soraida averred that around 1:00 p.m. on May 27, 2003, she was with her husband, accused Yusuf Benasing, resting in their rented place, when six (6) men in civilian clothing kicked their wooden door and tied the couple while they searched

the place for *shabu* and money. They boxed a male individual when they found none and uttered, "*wala pala*." They brought Yusuf and Soraida to the station. Accused-appellants did not file any charges against the police officers.

The RTC, Branch 57, Angeles City rendered a Decision dated February 8, 2011, disposing of the case as follows:

WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt, the Court finds the accused YUSUF BENASING y BAWA & SORAIDA BENASING y BAWA guilty beyond reasonable doubt of the offense of Violation of Section 5, Article II, R.A. 9165, and hereby sentences them to suffer the penalty of LIFE IMPRISONMENT and a fine of Php 500,000.00 each.

Accused YUSUF BENASING y BAWA is also sentenced to suffer the penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY, as minimum, to FOURTEEN (14) YEARS and EIGHT (8) MONTHS, as maximum, of *Reclusion Temporal* in criminal Case No. 03-275 for violation of Section 11 of R.A. 9165 and a fine of Php 300,000.00.

SO ORDERED.¹

The Court of Appeals, in its Decision² dated November 22, 2013, affirmed *in toto* the Decision of the RTC with costs against accused-appellants.

Accused-appellants filed a Notice of Appeal dated December 3, 2013.

The issues before us are:

1. Whether the accused-appellants are guilty beyond reasonable doubt of the crimes charged against them; and
2. Whether the CA erred in affirming the RTC Decision based on the evidence resulting from an invalid warrantless search and arrest.

After a judicious review and examination of the instant case, the Court finds no compelling reason to overturn the Decision of the Court of Appeals, which affirmed the Decision of the RTC. As a general rule, findings of the trial court, when affirmed by the Court of Appeals, are given great weight.³ Moreover, the defense of accused-appellants of denial without any supporting evidence is very weak, as compared to the unequivocal testimonies of the police officers who conducted the buy-bust operation and their subsequent arrest for violation of Sections 5 and 11, Article II of RA 9165.

¹ *Rollo*, p. 64. Penned by Judge Omar T. Viola.

² Penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Jose C. Reyes, Jr. and Mario V. Lopez.

³ *People v. Galicia*, G.R. No. 191063, October 9, 2013.

In *People v. Llanita*,⁴ this Court held that the “narration of the incident by the law enforcers, buttressed by the presumption that they have regularly performed their duties in the absence of convincing proof to the contrary, must be given weight.”

With respect to the chain of custody of the confiscated drug materials, Section 21(a) of the Implementing Rules and Regulations (IRR) of RA 9165 provides:

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 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 copies of the inventory and be given copy thereof. Provided that the physical inventory and the photograph shall be conducted at the place where the search warrant is served; or at least 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 evidentiary value of the seized items are properly preserved by the apprehending team/officer, shall not render void and invalid such seizures of and custody over said items.

In *People v. Ara, et al.*,⁵ this Court also held that “non-compliance with the procedural requirements under RA 9165 and its IRR relative to the custody, photographing and drug testing of the apprehended persons, is not a serious flaw that can render void the seizures and custody of drugs in a buy-bust operation” provided that the chain of custody is preserved, as in the present case.

In the case at bar, the integrity and evidentiary value of the seized items remained intact.

⁴ G.R. No. 189817, October 3, 2012, 682 SCRA 288.

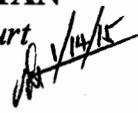
⁵ G.R. No. 185011, December 23, 2009, 609 SCRA 304.

WHEREFORE, we **AFFIRM** the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 05357. (Mendoza, *J.*, Additional Member in lieu of Jardeleza, *J.* per Raffle dated December 9, 2014)

SO ORDERED.”

Very truly yours,


WILFREDO V. LAPITAN

Division Clerk of Court 

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The Superintendent
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The Presiding Judge
REGIONAL TRIAL COURT
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