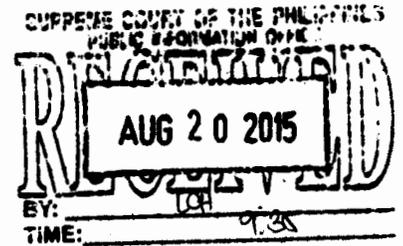




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 03 August 2015 which reads as follows:

"G.R. No. 191724 (People of the Philippines v. Paolo de Asis y Sarmiento). – We decide the appeal filed by appellant Paolo de Asis y Sarmiento from the October 30, 2009 decision¹ of the Court of Appeals (CA) in CA G.R. CR-H.C. No. 03093. The appealed decision affirmed the November 22, 2007 decision² of the Regional Trial Court (RTC), Branch 91, Quezon City, finding the appellant guilty beyond reasonable doubt of illegal possession of methylenedioxy-methylamphetamine, or *ecstasy*, as penalized under Section 11, Article II of Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

The appellant was initially charged with the illegal sale of *ecstasy*. The Information, however, was amended to reflect a charge of illegal possession of methylenedioxy-methylamphetamine after a preliminary examination timely requested by the appellant.

The RTC ruled that the appellant indubitably possessed 72 tablets of *ecstasy* during a buy-bust operation at a gasoline station along Katipunan Avenue, Barangay St. Ignatius, Quezon City.

According to the RTC, the appellant knowingly possessed and showed the *ecstasy* to PO3 Nestor Monterey (*PO3 Monterey*), who acted as the poseur-buyer, while they were onboard a blue car parked at a gasoline station along Katipunan Avenue. It also found unmeritorious and incredible the appellant's defense of denial and witnesses. Accordingly, the RTC imposed upon the appellant the penalty of life imprisonment, and a fine of ₱500,000.00.

On appeal, the CA affirmed the RTC decision. The CA ruled that all the elements of illegal possession were proved in this case and that the prosecution witnesses positively identified the appellant as the person who knowingly possessed the *ecstasy* during the buy-bust operation. It also categorically found that the tablets of *ecstasy* weighed 21.60 grams as borne by the records; hence, the RTC imposed the proper penalties.

Our Ruling

We dismiss the appeal for lack of merit, and accordingly affirm the assailed CA decision.

¹ *Rollo*, pp. 2-19; penned by Associate Justice Ramon R. Garcia, and concurred in by Associate Justices Fernanda Lampas Peralta and Romeo F. Barza.

² *CA rollo*, pp. 73-88; penned by Presiding Judge Lisa S. Toientino-Génilo.

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For the successful prosecution of offenses involving the illegal possession of dangerous drugs under Section 11, Article II of R.A. No. 9166, the following elements must be proven: (1) that the accused is in possession of the object identified as prohibited or regulated drug; (2) that such possession is not authorized by law; and (3) that the accused freely and consciously possessed the said drug.³

Our examination of the record confirms the presence of all these elements. The prosecution witnesses, including PO3 Monterey, narrated in detail how they formed a buy-bust team to apprehend the appellant; how PO3 Monterey acted as the poseur-buyer onboard a blue car parked at a gasoline station along Katipunan Avenue; how the appellant boarded the blue car where PO3 Monterey was; how the appellant knowingly offered and showed PO3 Monterey a plastic sachet full of *ecstasy* tablets, without any legal authority to possess such; how PO3 Monterey thereafter turned on the car's hazard lights to signal to the buy-bust team that a crime had been committed; how the rest of the buy-bust team apprehended the appellant; and how the buy-bust team found two more tablets of *ecstasy* in the appellant's possession after they frisked him.⁴

Additionally, the chain of custody over the *ecstasy* tablets was substantially complied with as conclusively proved by testimonial and documentary evidence. PO3 Monterey categorically testified that he confiscated the plastic sachet containing seventy (70) tablets of *ecstasy* from the appellant after the latter's arrest, as well as finding two more *ecstasy* tablets in the appellant's possession.⁵ PO3 Monterey turned over the seized tablets to PO3 Roderick Araneta who, in the presence of PO3 Monterey and the appellant, marked the plastic sachet with the initials "RGA/PSDA" and the date "052403."⁶ Thereafter, PO3 Roderick Araneta, with a Request for Laboratory Exam, delivered the marked plastic sachet containing the tablets to the PNP Crime Laboratory where it was received by P/Insp. Hermosila Ferminadoza.⁷

It was also clear that the contents of the marked plastic sachet were *ecstasy* tablets as confirmed in the Physical Science Report No. D-596-03S⁸ which declared the seventy-two (72) tablets seized from the appellant as methylenedioxy-methylamphetamine, a dangerous drug.

We likewise find unpersuasive the appellant's defense of denial in the face of positive evidence to the contrary. The Court views this defense with disfavor, for it can easily be fabricated.⁹ We likewise find as hearsay the testimony of the witness for the defense, Cenon Alquitran, a newspaper reporter, who testified that he allegedly knew of the buy-

³ *People v. Montevirgen*, G.R. No. 189840, December 11, 2013, 712 SCRA 459.

⁴ *Rollo*, pp. 12-14.

⁵ *Id.* at 14.

⁶ *Id.* at 15.

⁷ *Id.* at 15-16.

⁸ *Id.* at 15.

⁹ See *People v. Laylo*, G.R. No. 192235, July 6, 2011, 653 SCRA 660, 671.

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bust operation through phone interviews with people who were not members of the buy-bust team.¹⁰ The CA correctly disregarded this testimony as hearsay as Alquitran was not personally present during the conduct of the buy-bust operation.

Finally, we affirm the ruling of the RTC and the CA imposing the penalty of life imprisonment and a fine of ₱500,000.00 on the appellant for illegal possession of seventy-two (72) tablets or 21.60 grams of methylenedioxy-methylamphetamine, a dangerous drug, as the appropriate penalties provided for by law.¹¹

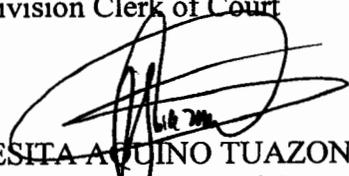
WHEREFORE, premises considered, we hereby **DISMISS** the appeal for lack of merit, and accordingly **AFFIRM** the October 30, 2009 decision of the Court of Appeals in CA G.R. CR-H.C. No. 03093.

SO ORDERED. "

Very truly yours,

MA. LOURDES C. PERFECTO
Division Clerk of Court

By:


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

¹⁰ CA rollo, pp. 80-84 and 119.

¹¹ 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:

x x x x

(8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxy-methylamphetamine (MDA) or "ecstasy," paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxyamphetamine (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, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

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THE DIRECTOR (reg)
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 91
Quezon City
Crim. Case No. Q-03-117715

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