Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- *versus* -

EDWIN DALAWIS y HIDALGO,
Accused-Appellant.

G.R. No. 197925

Present:

VELASCO, JR., *J.*, *Chairperson*,
PERALTA,
DEL CASTILLO,*
REYES, and
JARDELEZA, *JJ.*

Promulgated:

November 9, 2015

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DECISION

PERALTA, *J.*:

For this Court's consideration is the Decision[1] dated January 28, 2011 of the Court of Appeals (*CA*) in CA-G.R. CR-HC No. 02438 affirming, with modification, the Decision[2] dated May 23, 2006 of the Regional Trial Court (*RTC*), Branch 84, Batangas City, in Criminal Case No. 13739, finding appellant guilty beyond reasonable doubt of violating Article II of Republic Act (*RA*) No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

In an Information filed with the RTC, Branch 84, of Batangas City, appellant Edwin Dalawis y Hidalgo was charged with Violation of Article II of RA No. 9165, the accusatory portion of which reads:

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* Designated Additional Member in lieu of Associate Justice Martin S. Villarama, Jr., per Raffle dated November 4, 2015.

1 Penned by Associate Justice Mario L. Guariña III, with Associate Justices Apolinario D. Bruselas, Jr. and Rodil V. Zalameda, concurring; *rollo*, pp. 2-10.

2 Penned by Presiding Judge Paterno V. Tac-an; CA *rollo*, pp. 8-18.

That on or about November 1, 2004, at around 5:10 o'clock in the afternoon at Brgy. Sta. Clara, Batangas City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there wilfully, unlawfully and feloniously sell, dispense, or deliver 0.14 gram of methamphetamine hydrochloride (shabu), a dangerous drug, which is a clear violation of the above-cited law.

That the accused has been previously convicted by final judgment under the following, to wit:

Case No.	Offense	Court	Date of Conviction
5061	Viol. of Sec. 8 Art. II, RA 6425	RTC – 8	March 3, 1992
10477	Viol. of Sec. 15 Art. II, RA 6425	RTC – 8	June 19, 2000

CONTRARY TO LAW.[3]

Upon arraignment, appellant pleaded not guilty to the crime charged. Consequently, trial on the merits ensued.[4]

The factual antecedents, as narrated by the witnesses of the prosecution, are as follows:

At around 4 o'clock in the afternoon of November 1, 2004, an asset of PO2 Christian Boy Garcia Aranza arrived at the police station with information that shabu could be purchased from a certain Edwin Dalawis of Barangay (Brgy.) Sta. Clara, Batangas City. Acting on said information, Aranza, together with SPO4 Delfin Alea, PO3 Nestor Dimaano, PO3 Jayn Gonda, PO2 Villas, PO2 De Chavez and PO2 Lindbergh Yap, formed a team to conduct a buy-bust operation. Upon the orders of Alea, Aranza marked a ₱500 bill with his initials "CGA" to be used as the marked money for the operation. They then proceeded to Brgy. Sta. Clara, Batangas City, with Aranza, Alea, Dimaano, De Chavez, Yap and the asset, aboard a tinted van, while Villas and Gonda were on motorcycles. Their departure was recorded in the police blotter.[5]

At Brgy. Sta. Clara, Aranza frisked the asset to ensure that he did not have anything illegal in his possession, gave him the marked money, and told him to walk towards the place where he would meet the appellant, a Shell Gasoline Station. The policemen followed the asset thereto, and watched from the opposite portion of the station in the tinted van. Aside from appellant who was already thereat, they also saw the notorious drug

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3 *Id.* at 8.
4 *Rollo*, p. 3.
5 *CA rollo*, p. 9.

pusher named Robert Lagmay operating under the alias "Tagpi" coming out from Villa Anita. Thereafter, at a distance of more or less seven (7) meters, the policemen saw the asset hand the marked money to appellant who, in turn, handed a small transparent plastic sachet they suspected to contain shabu. Their asset, then, signalled to the policemen the consummation of the transaction by scratching his head. Upon seeing the signal, they immediately alighted from the van to apprehend the appellant. PO2 Aranza confiscated the marked money from appellant's right hand, while his asset turned over to him the plastic sachet. At the same time, PO2 De Chavez was also able to confiscate a sachet filled with what they suspected was shabu from the notorious drug pusher, Lagmay.[6]

The policemen then informed appellant and Lagmay of their constitutional rights and brought them to the barangay hall of Sta. Clara where their arrest was recorded in the barangay blotter. From there, they proceeded to the police station where appellant and Lagmay, together with the marked money and confiscated plastic sachet, were presented to the desk officer, SPO1 Martin Calingasan. SPO1 Calingasan recorded the buy-bust operation in the police blotter, prepared the complaint sheet, and turned over the suspects and seized items to the duty investigator, PO2 Santiago Matibag, Jr. In the latter's presence, PO2 Aranza marked the plastic sachet with his initials and the date of confiscation, executed his sworn statement, and signed the arrest report. PO2 Matibag then prepared the request for laboratory examination of the seized items and brought the same to the crime laboratory, where PO1 Malaluan, the duty receiving clerk, received said items and turned them over to Senior Inspector Jupri C. Delantar, who conducted the laboratory examination. The findings on the seized items tested positive for methamphetamine hydrochloride, otherwise known as *shabu*.[7]

Against the foregoing charges, appellant testified on his own version of facts, thus:

In the afternoon of November 1, 2004, appellant stated that he was at his house in Villa Anita when he heard a commotion nearby. He peeped through the door and saw that the commotion was coming from outside the house of Fe Abag. He then approached the persons thereat and uttered the words "*putang ina niyo, ano gang gulo yan*?" All of a sudden, a man turned his back and poked a gun at him. He panicked and retreated to his house, realizing that the persons at the commotion were policemen. He was then called upon by one of them to go out of his house. He went out and apologized. However, a policeman cursed at him saying, "*putang ina ka, gusto mo pa yatang harangin ang paghuli namin dito kay Fe.*"[8]

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6 *Id.* at 10.
7 *Id.* at 14.
8 *Id.* at 15.

The policemen then forcibly took appellant into custody, together with the other arrested persons, one of whom was the notorious drug pusher, Robert Lagmay, and brought them first, to the barangay hall, and then next, to the police headquarters. Inside the intelligence section, appellant was asked if he had any previous involvement in illegal drugs, to which he replied in the positive.[9] Appellant then overheard the conversation of the police with Lagmay, wherein they said that since Lagmay is the son of Sgt. Lagmay and the brother of a certain Liklik, they would file a lesser charge so as to enable him to post bail, while they would instead file the case against appellant. Thereafter, the policemen brought out two (2) plastic sachets containing a white substance, which appellant claimed he has never seen before. They asked appellant and Lagmay to point to the plastic sachet while they took a photograph thereof. Afterwards, appellant and Lagmay were put in jail. On cross-examination, appellant admitted that he had been twice convicted of offenses involving illegal drugs.[10]

Appellant's testimony was corroborated by his neighbors, Julius Javier and Lorna Catipan, who were watching from inside their respective houses, particularly as to how appellant was forcibly brought out of his house by the policemen.[11]

In its Decision dated May 23, 2006, the trial court gave credence to the testimonies of the police officers as they were given in a direct and positive manner, replete with details as to the manner in which the offense was committed. It took note of the fact that the police were in a clear position to witness the transaction, being merely seven (7) meters away, and also found that the custody and chain of delivery up to the Police Crime Laboratory were duly established. On the contrary, the RTC was not impressed with appellant's defense that he was forcibly abducted from his residence in view of the fact that the witnesses did not report such a serious offense to the proper authorities. It, therefore, disposed of the case as follows:

> WHEREFORE, finding the accused GUILTY BEYOND REASONABLE DOUBT of the offense charged he is hereby sentenced to suffer life imprisonment to be served by him at the National Penitentiary Muntinlupa City with recommendation of no parole for habitual delinquency and to pay a fine of five hundred thousand pesos (₱500,000.00).
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> The shabu subject matter of this case consisting of one (1) plastic sachet shall be delivered by Branch Sheriff Rolando D. Quinio to the PDEA, Quezon City within fifteen (15) days from today.
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> SO ORDERED.[12]

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9 *Id.*
10 *Id.* at 16.
11 *Id.* at 16-17.
12 *Id.* at 18.

Appellant appealed his conviction arguing that: (1) the existence of the marked money prior to the alleged buy bust was not duly proven in court as the police officer who recorded the pre-operation events made no mention of any marking on the buy-bust money; (2) the prosecution failed to prove the legitimacy of the operation considering the absence of any document that would prove that there was indeed a report by the confidential informant of the police officers; (3) the trial court erroneously failed to appreciate his defense that based on the conversation he heard between the police and Lagmay, he was merely being set up considering that a certain Fe Abag, who was originally the target of the arrest, was actually detained for a drug-related crime and that Lagmay was allowed to post bail; (4) there are infirmities in the pre and post operation reports; (5) there is no evidence which shows that the buy-bust operation was exercised in coordination with the PDEA or the barangay authorities; (6) the police officers failed to physically inventory the seized items in the presence of the accused; (7) there was no proper identification of the specimen actually examined; (8) the chain of custody of the seized items was not established; (9) he could not be adjudged as a habitual delinquent because he was charged not of any of the crimes enumerated by law for which one could be considered as such, but of violation of the drugs law.[13]

On January 28, 2011, the appellate court sustained the appellant's conviction with a correction as to the trial court's recommendation of no parole for its finding of habitual delinquency. It found too trivial appellant's imputation as to the failure of the policemen to record in the pre-operation report the markings on the ₱500 bill, citing the ruling in *People v. Concepcion, et al.*[14] that the recording of the buy-bust money in the police blotter is immaterial to the prosecution of illegal drugs. Neither is it required that the confidential informant put his tip down in writing. The CA ruled that what is material in the prosecution of illegal sale of regulated or prohibited drugs is proof that the transaction or sale actually took place, coupled with the presentation in the court of the *corpus delicti* of the crime.[15]

Great weight was likewise accorded to the trial court's factual finding that the testimonies given by the police officers were unequivocal, detailed, and straightforward, prevailing over appellant's mere allegation of frame-up and forcible abduction. The appellate court cites the oft-repeated rule that unless there appears on record some fact or circumstance of weight and influence which the trial court has overlooked, misapprehended, or misinterpreted, it shall not interfere with the assessment of the credibility of the witnesses.[16] As to the conduct of a buy-bust operation, moreover, *People v. Ahmad*[17] ruled that police officers are assumed to have the expertise to

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13 *Id.* at 45-52.
14 578 Phil. 957, 975-976 (2008).
15 *People v. Mala,* 458 Phil. 180, 190 (2003).
16 *People v. Julian-Fernandez*, 423 Phil. 895, 910 (2001).
17 464 Phil. 848, 868 (2004).

determine which specific approaches are necessary to enforce their entrapment operation.

Furthermore, contrary to appellant's asseverations, the CA was content as to how the identity of the seized drugs and the chain of custody of the same were established. There was direct testimonial evidence of the identity of the drugs as shown by the markings on its container and of the fact that the seizing officers turned over the items to the duty investigator who then delivered them personally to the laboratory. Thus, the appellate court, citing *People v. Naquita*,[18] ruled that the failure, by itself, of the police officers to strictly observe all the requirements laid down in the drugs law, particularly Section 21 of RA No. 9165, will not invalidate the arrest of the accused and seizure of illegal drugs in the course thereof, for as long as there is showing that the integrity and evidentiary value of the same has been preserved.

As to the trial court's finding of the appellant's habitual delinquency which therefore bars him from any future parole, however, the appellate court found the same to be without any legal basis. This is due to the fact that the crime for which appellant has prior convictions is not that of serious or less serious physical injuries, *robo*, *hurto*, *estafa* or falsification as provided by Article 62 of the Revised Penal Code (*RPC*).

Aggrieved, appellant now seeks his acquittal before the Court, adopting the arguments he invoked in his appellant's brief filed before the appellate court.[19]

The appeal is unmeritorious.

As previously alleged in his Appellant's Brief, appellant calls for his acquittal, insisting on several irregularities in the buy-bust operation conducted by the police officers who apprehended him. Particularly, appellant notes the absence of evidence which shows that the buy-bust operation was exercised in coordination with the Philippine Drug Enforcement Agency (PDEA) or the barangay authorities, and the failure of the police officers to properly identify and to physically conduct an inventory of the seized items in his presence, as mandated by Section 21, Paragraph 1, Article II of RA No. 9165 which provides:

> Section 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

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18 582 Phil. 422, 441-442 (2008).

19 *Rollo*, p. 26.

> 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:
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> (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 (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]

It bears stressing however, that failure to strictly comply with the foregoing procedure will not render an arrest illegal or the seized items inadmissible in evidence[20] in view of the qualification permitted by Section 21(a) of the Implementing Rules and Regulations (IRR) of RA No. 9165, to wit:

> (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 a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at 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 the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]**[21]

Thus, it has been held that for as long as the integrity and evidentiary value of the seized items are properly preserved pursuant to the chain of custody rule, non-compliance with Section 21 of RA No. 9165 does not automatically render illegal the arrest of an accused or inadmissible the items seized.[22] The rule on chain of custody expressly demands the identification of the persons who handle the confiscated items for the purpose of duly monitoring the authorized movements of the illegal drugs and/or drug paraphernalia from the time they are seized from the accused

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20 *People of the Philippines v. Manuel Flores y Salazar @ Wella*, G.R. No. 201365, August 3, 2015, citing *People v. Salvador*, G.R. No. 190621, February 10, 2014, 715 SCRA 617, 634.

21 Emphasis supplied.

22 *People of the Philippines v. Michael Ros y Ortega, et al.*, G.R. No. 201146, April 15, 2015, citing *People v. Robelo*, G.R. No. 184181, November 26, 2012, 686 SCRA 417, 428; *People v. Dela Cruz*, 662 Phil. 275, 292 (2011); *People v. Amansec,* 678 Phil. 831, 856 (2011); *People v. Vicente, Jr.* 656 Phil. 189, 197 (2011); *People v. Desuyo,* 639 Phil. 601, 619 (2010); and *People v. Mariacos,* 635 Phil. 315, 337 (2010).

until the time they are presented in court. Moreover, as a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered in evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.[23]

In the instant case, appellant simply stated that "the chain of custody of the alleged *shabu* is highly questionable" without presenting any evidence which would substantiate his allegation. Yet, on the contrary, the records of the case reveal that the police officers were able to maintain the integrity of the seized plastic sachet and that the links in its chain of custody were sufficiently established. The police officers, who were merely at a distance of seven (7) meters away, convincingly testified that they personally saw their asset hand the marked money to appellant who, in turn, handed the plastic sachet containing the white crystalline substance. Immediately thereafter, they alighted from the van and moved towards appellant. PO2 Aranza himself confiscated the marked money from appellant's right hand, who was duly informed of his constitutional rights before he was brought to the barangay hall, and then to the police station. There, the confiscated sachet was presented to PO1 Calingasan who recorded the operation in the police blotter and then turned over the seized item to PO2 Matibag, the duty investigator. In the latter's presence, PO2 Aranza marked the plastic sachet with his initials. Thereafter, PO2 Matibag brought the same to the crime laboratory where PO1 Malaluan, the duty receiving clerk, received said items and turned them over to Senior Inspector Jupri C. Dilantar, who conducted the laboratory examination. Based on said examination, Senior Inspector Dilantar found that the plastic sachet seized from appellant contains methamphetamine hydrochloride, which finding he reduced into writing in Chemistry Report No. BD-143-04. Thus, contrary to appellant's bare allegation, there is no showing that the integrity and evidentiary value of the seized item had been compromised in any way.

Apart from the foregoing allegations, appellant proceeded to impute additional lapses in the buy-bust operation. According to him, the existence of the marked money prior to the alleged buy bust was not duly proven in court as the police officer who recorded the pre-operation events made no

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[23] *People v. Flores, supra* note 20, citing *Valencia v. People*, G.R. No. 198804, January 22, 2014, 714 SCRA 492, 504

mention of any marking on the buy-bust money. Moreover, appellant asserts that the prosecution failed to prove the legitimacy of the operation considering the absence of any document that would prove that there was indeed a report by the confidential informant of the police officers. Yet, nowhere in his appellant's brief did he provide any basis, jurisprudential or otherwise, to support his conclusions that these alleged lapses are fatal to his prosecution. In fact, as aptly ruled by the CA, the recording of marked money used in a buy-bust operation is not one of the elements for the prosecution of sale of illegal drugs. Neither is it required that the confidential informant put his tip down in writing. For as long as the sale of the prohibited drug is adequately proven, the recording or non-recording thereof in an official record will not necessarily lead to an acquittal.[24]

It must be emphasized, at this point, that for a successful prosecution of offenses involving the illegal sale of dangerous or prohibited drugs under Section 5, Article II of R.A. No. 9165, all of the following elements must be satisfied: (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and payment therefor. Succinctly stated, the delivery of the illicit drug to the poseur-buyer and the receipt of the marked money by the seller successfully consummate the buy-bust transaction. What is material, therefore, is the proof that the transaction or sale transpired, coupled with the presentation in court of the *corpus delicti*, as evidence.[25]

In the instant case, the Court finds that the foregoing requisites were sufficiently met. As aptly found by the courts below, evidence for the prosecution adequately established beyond reasonable doubt the identity of the seller and buyer as well as the exchange of the plastic sachet of *shabu* and the marked money. There was direct proof that the sale of *shabu* actually transpired, the chain of custody having been duly preserved, establishing the *corpus delicti* in court. This Court, therefore, finds no compelling reason to diverge from the trial court's findings, especially since such were affirmed by the appellate court.

It is a well-entrenched rule that the findings of facts of the trial court, as affirmed by the appellate court, are conclusive on this Court, absent any evidence that both courts ignored, misconstrued, or misinterpreted cogent facts and circumstances of substance which, if considered, would warrant a modification or reversal of the outcome of the case.[26] Since prosecutions involving illegal drugs largely depend on the credibility of the police officers who conducted the buy-bust operation, reliance may be made on the findings of fact of the trial court, which is in a better position to decide the question,

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[24] *People v. Concepcion, et al., supra* note 14, at 976, citing *People v. Suson,* 527 Phil. 281, 296 (2006).

[25] *People of the Philippines v. Eric Rosauro y Bongcawil*, G.R. No. 209588, February 18, 2015, citing *People v. Torres,* G.R. No. 191730, June 5, 2013, 697 SCRA 452, 462-463.

[26] *Sy v. People*, 671 Phil. 164, 180 (2011), citing *People v. Dilao,* 555 Phil. 394, 407 (2007).

having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[27] Thus, in view of the clear and straightforward evidence of the prosecution *vis-à-vis* appellant's unsubstantiated defenses, this Court shall accord a high degree of respect to the factual findings of the courts below.

As to the trial court's finding of habitual delinquency, the Court is in agreement with appellant, the CA, as well as the prosecution that the trial court erred in withholding the benefit of parole from appellant on the ground of habitual delinquency in spite of the express mandate of Article 62 of the RPC, *viz.*:

> Art. 62. *Effect of the attendance of mitigating or aggravating circumstances and of habitual delinquency.* — Mitigating or aggravating circumstances and habitual delinquency shall be taken into account for the purpose of diminishing or increasing the penalty in conformity with the following rules:
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> x x x x
>
> 5. Habitual delinquency shall have the following effects:
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> (a) Upon a third conviction the culprit shall be sentenced to the penalty provided by law for the last crime of which he be found guilty and to the additional penalty of prision correccional in its medium and maximum periods;
>
> (b) Upon a fourth conviction, the culprit shall be sentenced to the penalty provided for the last crime of which he be found guilty and to the additional penalty of prision mayor in its minimum and medium periods; and
>
> (c) Upon a fifth or additional conviction, the culprit shall be sentenced to the penalty provided for the last crime of which he be found guilty and to the additional penalty of prision mayor in its maximum period to reclusion temporal in its minimum period.
>
> Notwithstanding the provisions of this article, the total of the two penalties to be imposed upon the offender, in conformity herewith, shall in no case exceed 30 years.
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> **For the purpose of this article, a person shall be deemed to be habitual delinquent, is within a period of ten years from the date of his release or last conviction of the crimes of serious or less serious physical injuries, robo, hurto, estafa or falsification, he is found guilty of any of said crimes a third time or oftener.**[28]

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[27] *People v. Loks*, G.R. No. 203433, November 27, 2013, 711 SCRA 187, 194, citing *People v. Naelga*, 615 Phil. 539, 554 (2009).

[28] Emphasis supplied.

It is clear, therefore, that habitual delinquency is considered only with respect to the crimes specified in the aforequoted Article. In the instant case, appellant was charged with violation of the Dangerous Drugs Law, the same crime adjudged in his two (2) prior convictions, and not of crimes of serious or less serious physical injuries, *robo*, *hurto*, *estafa* or falsification, as required by the RPC. Hence, the law on habitual delinquency is simply inapplicable to appellant.[29]

WHEREFORE, premises considered, the instant appeal is **DENIED**. The Decision dated January 28, 2011 of the Court of Appeals in CA-G.R. CR-HC No. 02438 is hereby **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

BIENVENIDO L. REYES
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

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[29] *Villa v. Court Appeals,* 377 Phil. 830, 837 (1999), citing *People v. Moran, et al.*, 59 Phil. 406 (1934).

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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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.

MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
DEC 28 2015