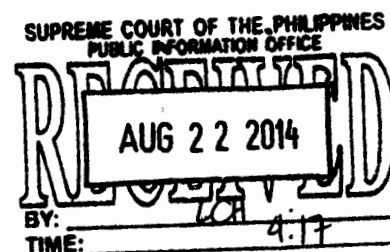




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 25, 2014** which reads as follows:*

“G.R. No. 191259 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee v. MOHAMID ABDURAHMAN y DALANDANG, Accused-Appellant.

An accused’s allegations of procedural lapses committed by the apprehending law enforcement agents during their seizure and custody of the prohibited drugs are not magic words that would automatically merit an acquittal in a prosecution for violation of Republic Act No. 6425 (*Dangerous Drug Act of 1972*), as amended by R.A. No. 7659. Lapses notwithstanding, the seizure and custody of the prohibited drugs can sustain a conviction if their evidentiary weight and integrity are established during the trial.

The appellant is before the Court to insist on his innocence, and to seek the reversal of the decision promulgated on October 29, 2009,¹ whereby the Court of Appeals (CA) affirmed with modification the judgment rendered on May 31, 2007 by the Regional Trial Court (RTC), Branch 18, in Manila finding him guilty of the illegal sale of methamphetamine hydrochloride or *shabu*, in violation of Section 15 of Republic Act No. 6425 (*Dangerous Drug Act of 1972*), as amended by R.A. No. 7659.²

Antecedents

In the morning of May 19, 2000, Special Investigator III Chester Gans II of the National Bureau of Investigation (NBI) received a tip from a deep penetration agent assigned in the Muslim Community in Manila

¹ *Rollo*, pp. 2-16.

² *CA rollo*, pp. 19-33.

- over – six (6) pages

reporting that the appellant was engaging in the selling of *shabu* at No. 770 Bataan Street in Sampaloc, Manila.³ Gans relayed the information to NBI Counter Intelligence Division Chief Elex B. Crelencia, who forthwith constituted a buy-bust team to look into the tip and arrest the suspect *in flagrante delicto*. Gans, being designated as the *poseur buyer*,⁴ prepared the boodle money of ₱500,000.00 to be used. The buy-bust operation was mounted on the same day but was aborted upon information that the appellant could not yet produce the sufficient quantity of *shabu*. The buy-bust operation was reset on the next day after the deep penetration agent negotiated another transaction between the appellant and Gans.⁵

On May 20, 2000, the buy-bust team resumed the operation. Gans, accompanied by another NBI agent and the deep penetration agent, arrived at the target area at around 9:00 o'clock in the morning, and knocked at the gate of the address. The other members of the buy-bust team led by NBI Agent Alex Advento strategically positioned themselves at a distance of from 10 to 15 meters away from Gans' group. It was the appellant who responded to the knock and opened the gate. Gans introduced himself as the supposed buyer of *shabu* the day before. With that introduction, the appellant let Gans and his companions entered the premises.

Gans went with the appellant inside the latter's apartment, where he negotiated with the appellant, who inquired about the money. Gans insisted on first seeing the *shabu* before giving the money. The appellant replied that he did not have the *shabu* in the apartment. He then instructed his partner, a certain Ambolodto, to get the *shabu*. Ambolodto left the apartment and returned after a short while, handing the *shabu* to the appellant, who, in turn, turned the *shabu* over to Gans. Upon receiving the *shabu*, Gans inspected the *shabu*, and upon verifying that the white crystalline substances were really *shabu*, he delivered the boodle money of ₱500,000.00 to the appellant.⁶ Instantly, Gans drew his firearm and introduced himself as an NBI agent, and simultaneously turned on his radio to give out the pre-arranged signal to the rest of the buy-bust team by saying into the radio "Go, go, go!" The rest of the buy-bust team rushed inside the apartment, and assisted Gans in apprehending the appellant and Ambolodto.⁷ The lawmen brought the appellant and Ambolodto to the NBI Headquarters on board a jeepney. Going along with them were four male and four female occupants of the apartment who insisted on accompanying the arrestees.

³ *Rollo*, p. 4.

⁴ *Id.*

⁵ *Id.* at 5.

⁶ *Id.*

⁷ *Id.* at 6.

The *shabu* recovered during the buy-bust operation consisted of 307.3602 grams that, when examined in the NBI Laboratory, tested positive for the presence of methamphetamine hydrochloride, a dangerous drug.⁸

The appellant and Ambolodto were charged with the illegal sale of methamphetamine hydrochloride in violation of Section 15, Article III of R.A. No. 6425 (*Dangerous Drug Act of 1972*), as amended by R.A. No. 7659.⁹ They were then tried after their arraignment on July 10, 2000. However, Ambolodto escaped from the Tagaytay City Treatment and Rehabilitation Center, the place of his detention, and has remained at large to this date.¹⁰

In his defense, the appellant claimed that he had been framed up. He insisted that he had been invited to the house of one Boyet Gandawali after having prayed in the mosque in Quiapo; that the NBI agents had barged in the house and arrested him, Gandawali and four others; that the NBI agents had planted the *shabu*; and that the NBI agents had attempted to extort money by demanding ₱1,000,000.00 from them in exchange for their liberty.¹¹

After trial, the RTC rendered its decision on May 31, 2007 convicting the appellant of the crime charged and sentencing him to suffer life imprisonment and to pay a fine of ₱1,000,000.00 in accordance with R.A. No. 9165 (*Comprehensive Drugs Act of 2002*) on the basis that the new law was more favorable to the appellant than R.A. No. 6425, as amended. It ordered the arrest of Ambolodto.¹²

On appeal (CA-G.R. CR-HC No. 03021), the CA promulgated on October 29, 2009 the decision that is now under review, whereby it affirmed the conviction subject to the modification of the penalty,¹³ to wit:

WHEREFORE, the Decision of the Regional Trial Court of Manila, Branch 18, dated 31 May 2007, in Criminal Case No. 00-182999, is **AFFIRMED** with the **MODIFICATION** that appellant Mohamid Abdurahman y Dalandang is sentenced to *reclusion perpetua*, pursuant to Section 15, Article III of R.A. No. 6425, as amended by R.A. No. 7659. The fine imposed by the trial court in the amount of One Million Pesos (₱1,000,000.00) is likewise **AFFIRMED**.

⁸ Exhibit H (*Dangerous Drugs Report No. DD-00-694*) I Records, p. 38.

⁹ *Rollo*, pp. 2-3.

¹⁰ *Id.* at 4.

¹¹ *Id.* at 7.

¹² *Id.* at 7-8.

¹³ *Id.* at 2-17; penned by Associate Justice Ricardo R. Rosario, with the concurrence of Associate Justice Martin S. Villarama, Jr. (now a Member of the Court) and Associate Justice Magdangal M. De Leon.

No pronouncement as to costs.

SO ORDERED.

Hence, this appeal, with the appellant alleging that the CA's affirmance of his conviction was contrary to the facts, law and jurisprudence.¹⁴

The appeal has no merit.

The CA and the RTC were united in finding that the State established the crime of illegal sale of prohibited drugs as defined under R.A. No. 6425, as amended. We join their finding, because *poseur-buyer* Gans positively identified the appellant as the seller of the *shabu* that was the object of the sale. Moreover, Gans credibly outlined the incidents leading to the delivery of the *shabu* and the acceptance by the appellant of the boodle money.¹⁵ We hold that the CA and RTC were painstaking in their appreciation of the evidence, and sifted through the evidence by leaving no evidentiary stone unturned. In the end, they found the incriminating evidence consistent and credible.

The findings of fact by the trial court, when affirmed by the CA on intermediate review, are binding and conclusive on the Court. They cannot be overcome by the denial by the accused as well as by his frame-up defense. Such defenses, which are common in prosecutions for drug-related offense, deserve no better weight than the positive testimonies on the commission of the crime, and the firm identification of the culprits by the *poseur buyer*. Only when the trial court's assessment of the evidence is persuasively shown to be tainted with palpable error, capriciousness and arbitrariness should we ever undo the assessment.¹⁶ For, verily, its more direct access to the witnesses and their testimonies during the trial enabled the trial court to personally appreciate their demeanor during the direct and cross examinations, and to have the opportunity to test them for error and bias. Unlike the trial judge, we cannot have the same opportunity and access.

The appellant's challenge to the custody of the seized *shabu* is unavailing. There is no question that a perfect chain of custody of the prohibited drugs is almost impossible to ensure.¹⁷ Yet, allegations of procedural lapses in the seizure and custody of the prohibited drugs should not invalidate such seizure and the custody for as long as their evidentiary

¹⁴ CA rollo, p. 150.

¹⁵ Rollo, p. 13; CA rollo, p. 30.

¹⁶ *People v. Quiamanlon*, G.R. No. 191198, January 26, 2011, 640 SCRA 697, 706.

¹⁷ *People v. Arriola*, G.R. No. 187736, February 8, 2012, 665 SCRA 581, 601.

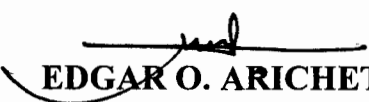
value is retained and preserved.¹⁸ Gans consistently showed that the chain of custody remained unbroken by identifying the *shabu* presented in court as evidence to be the very same *shabu* that had been the subject of the buy-bust transaction with the appellant. He indicated that he had personally tagged the seized *shabu* and marked it with the name "Mohamid Abdurahman" and with his own initials on the same tag. He then pointed out that the same tag he had placed was still attached to the *shabu* being presented to him for identification in court.¹⁹ He further attested that the *shabu* was submitted to the Forensic Chemistry Division for laboratory examination.²⁰ On the other hand, the appellant did not adduce proof showing bad faith, ill-will or evidence tampering on the part of Gans and the other law enforcers who had effected his arrest. Without such proof, the law strongly presumed the regularity of the performance of official duties in favor of the law enforcers, particularly Gans, in relation to the seizure and custody of the *shabu*.²¹

We concur with the CA that *reclusion perpetua*, not life imprisonment, was the correct penalty to be imposed on the appellant. That was the penalty under RA No. 6425, the law violated.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on October 29, 2009 in CA-G.R. CR-H.C. No. 03021; and **ORDERS** the accused to pay the costs of suit.

SO ORDERED." **VILLARAMA, JR., J.**, took no part; **MENDOZA, J.**, additional member per raffle dated March 15, 2010.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
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The Solicitor General (x)
Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 03021)

The Director
Bureau of Corrections
1770 Muntinlupa City

The Hon. Presiding Judge
Regional Trial Court, Br. 18
1000 Manila
(Crim. Case No. 00-182999)

¹⁸ *People v. Cardenas*, G. R. No. 190342, March 21, 2012, 668 SCRA 827, 836-837, quoting *People v. Ara*, G.R. No. 185011, December 23, 2009, 609 SCRA 304.

¹⁹ TSN, November 23, 2000, p. 16.

²⁰ *Rollo*, p. 12-13.

²¹ *People v. Quiamanlon*, supra note 16, at 719.

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PUBLIC ATTORNEY'S OFFICE
Counsel for Accused-Appellant
DOJ Agencies Bldg.
1128 Diliman, Quezon City

Judgment Division (x)
Supreme Court

Mr. Mohamid D. Abdurahman
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

SR

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