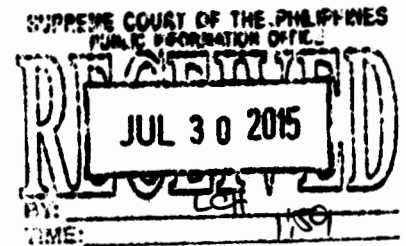




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **01 July 2015** which reads as follows:*

G.R. No. 214441 – (People of the Philippines v. Pablito Bolantes).

The records of this case were elevated to this Court on October 16, 2014, pursuant to the Resolution of the Court of Appeals (CA), dated June 11, 2014, which gave due course to the notice of appeal filed by the accused-appellant, Pablito Bolantes (*Bolantes*).

The Court notes the Manifestation and Motion, dated March 16, 2015, filed by the Office of the Solicitor General (OSG), as well as the Manifestation (In Lieu of Supplemental Brief), dated April 8, 2015, filed by Bolantes, stating that they would no longer file their supplemental briefs and that they were adopting all the defenses and arguments raised in their respective briefs filed before the CA.

Hence, this disposition.

Subject of this appeal is the April 22, 2014 CA Decision,¹ in CA-G.R. CR HC No. 05578, which affirmed the February 28, 2011 Decision² rendered by the Regional Trial Court, Branch 53, Manila (RTC), in Criminal Case No. 05-237502, finding Bolantes guilty beyond reasonable doubt of the crime of Violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, for the illegal sale 0.09 gram of shabu.

Version of the Prosecution

The version of the prosecution was summarized by the OSG in its Brief for the Appellee³ as follows:

In the afternoon of June 15, 2005, a confidential informant arrived at the Police Station 3 in Central Market, Sta. Cruz, Manila to report the illegal activities, along Elias St., Sta Cruz, Manila, which involved one alias Boyet. Boyet is the pseudonym of appellant and the information was received by PSI Baybayan, the Chief of the Station Anti-Illegal Drugs (SAID).

¹ Penned by Associate Justice Isaias P. Dicdican with Associate Justice Victoria Isabel A. Paredes and Associate Justice Zenaida T. Galapante-Laguilles, concurring; *rollo*, pp.1-A-12.

² Penned by Judge Reynaldo A. Alhambra; *CA rollo*, pp. 12-15.

³ *Id.* at 58-72.

PSI Baybayan then formed a buy-bust team for appellant's arrest, composed of PO2 Cipriano, PO3 Gloybell Dimacali, and PO1 Napoleon Osias. PSI Baybayan briefed the team for fifteen (15) minutes and gave them their respective functions. PO2 Cipriano was the designated poseur-buyer. He, thus, prepared the Pre-operation and Coordination Sheet, and the Five Hundred Peso (₱500.00) buy-bust money marked with a dollar sign in the upper right corner of the Philippine flag. The pre-arranged signal was a scratch on the head by PO2 Cipriano.

Around 5:10 p.m., PO2 Cipriano, PO3 Dimacali, PO1 Osias and the confidential informant arrived at the target location. PO2 Cipriano and the confidential agent waited in an alley along Elias Street, while the other police officers served as perimeter back-up. PO2 Cipriano and the confidential agent spotted appellant standing in front of a house; the two approached the latter and the informant introduced to appellant PO2 Cipriano as an interested buyer.

Appellant asked for the five-hundred peso bill from PO2 Cipriano but the latter refused until he could see the stuff – the shabu. Appellant then told PO2 Cipriano to wait as he would have to get the stuff from his house. Appellant left and turned in one of the alleys; he returned after three (3) to five (5) minutes and handed PO2 Cipriano a plastic sachet containing white crystalline granules.

PO2 Cipriano then handed appellant the five-hundred peso marked money. Thereafter, he introduced himself as a police officer and grabbed appellant. PO2 Cipriano shouted "tulong, tulong, pare," he could not execute the pre-arranged signal as he was restraining the appellant and was afraid that appellant was going to flee.

PO2 Cipriano apprised appellant of his constitutional rights and recovered the buy-bust money from appellant's left hand. The team went back to Police Station 3 and investigated appellant there. PO3 Dimacali served as the investigator, and interviewed appellant. The appellant was fingerprinted and again informed of his constitutional rights.

In the police station, PO2 Cipriano marked the plastic sachet with the word "SAID." He then turned over the evidence to PO3 Dimacali and prepared the Booking Sheet and other pertinent documents. PSI Baybayan then signed the Request for Laboratory Examination.

The Request for Laboratory Examination was forwarded to the Western Police District by PO2 Jeonardin Carandang, one of the team members named in the overall Pre-operation and Coordination Sheet. The request indicated the case number as D-532-05 and was received by the WPD Crime Laboratory at 11:25 p.m. PSI Tapan examined the specimen with marking "SAID" and the case number D-532-05. After a qualitative examination, which was completed at 1:25 a.m. of June 16, 2005, the specimen gave a positive result for methylamphetamine hydrochloride.⁴

⁴ Id. at 62-64.

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Version of the Defense

Bolantes denied the charge against him and presented his version in his Brief for the Accused-Appellant.⁵

On June 15, 2005 at around 2:30 o'clock in the afternoon, accused Pablito Bolantes went out of their house after waking up. Suddenly, four (4) police officers including PO3 Dimacali and PO1 Osias arrested him. PO1 Osias embraced and told him that they wanted to ask him about something at the precinct. When he asked PO1 Osias what they wanted to know, the police officers did not answer and instead, he was boarded by the police officers in a tricycle. Barangay Kagawad Philip came by and asked the police officers what they were doing. At around 4:00 o'clock in the afternoon, police officer Obet Garcia asked Fifty Thousand Pesos (₱50,000.00) from him at the police station. It was the first time that he met police officer Garcia although he had already met PO3 Dimacali and PO1 Osias before, during an occasion at their house.

Previously, he had been arrested for vagrancy but he was released after he gave money to the police officers. The charge against him, eventually, was referred for further investigation. This was the second time that he was arrested and the police officers were probably thinking that they could extort money from him again. He did not give the Fifty Thousand Pesos (₱50,000.00) asked by the police officers because he did not know for what offense he was being charged. He denied the charge against him.⁶

The Ruling of the RTC

On February 28, 2011, the RTC found Bolantes guilty as charged. It lent credence and weight to the testimony of PO2 Cipriano, who was presumed to have performed his duty regularly, that Bolantes was caught in *flagrante delicto* selling 0.09 gram of shabu. The RTC added that the identity of the confiscated narcotic was duly established during the trial by the poseur-buyer, PO2 Cipriano, and that the integrity and evidentiary value of the *corpus delicti* were properly preserved by the apprehending officers. Accordingly, Bolantes was sentenced to life imprisonment and ordered to pay a fine of ₱500,000.00.

The Ruling of the CA

In its assailed April 22, 2014 Decision, the CA found no reason to reverse the findings of the RTC. It concluded that all the elements of the offense charged were adequately proven by the prosecution. It stated that the presumption of regularity in the performance of official duty was not sufficiently

⁵ Id. at 30-40.

⁶ Id. at 39-40.

controverted by Bolantes. Lastly, the CA opined that the integrity and evidentiary value of the confiscated shabu was duly preserved. The *fallo* of the CA decision reads:

WHEREFORE, in view of the foregoing premises, the instant appeal is hereby ordered DENIED and, consequently, DISMISSED. The appealed Decision rendered by Branch 53 of the Regional Trial Court of the National Capital Region in the City of Manila on February 28, 2011 in Criminal Case No. 05-237502 is hereby AFFIRMED *in toto*.

SO ORDERED.⁷

The Issues

Aggrieved by his conviction, Bolantes filed the subject appeal and submitted for review the following

ASSIGNMENT OF ERRORS

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE PROSECUTION'S FAILURE TO ESTABLISH THE CHAIN OF CUSTODY OF THE ALLEGED CONFISCATED DRUG AS WELL AS ITS IDENTITY AND INTEGRITY CONSTITUTING THE CORPUS DELICTI OF THE CRIME.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.⁸

The conviction of Bolantes must stand.

Fundamental is the rule that the findings of the trial court, which are factual in nature and which involve the credibility of witnesses, are accorded respect when no glaring errors, gross misapprehension of facts or speculative, arbitrary and unsupported conclusions can be gathered from such findings.⁹ This rule finds an even more stringent application where such assessment is affirmed

⁷ *Rollo*, p. 12.

⁸ *Id.* at 40.

⁹ *People v. De Guzman*, 564 Phil. 282, 290 (2007).

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by the CA.¹⁰ In the present case, the Court sees no compelling reason to disturb the factual findings of the courts *a quo*.

In a successful prosecution for illegal sale of dangerous drugs, the following essential elements must concur: (1) that the transaction or sale took place; (2) the *corpus delicti* or the illicit drug was presented as evidence; and (3) that the buyer and seller were identified.¹¹

All the foregoing elements were duly proven in the case at bench. PO2 Cipriano testified that he was the poseur-buyer in the buy-bust operation conducted along an alley on Elias Street, Sta. Cruz, Manila, at around 5:10 o'clock in the afternoon of June 15, 2005. He identified Bolantes as the seller of the plastic sachet containing shabu in exchange for a consideration of ₱500.00. The Court finds that the credible and positive testimony of PO2 Cipriano is more than sufficient to prove that an illegal transaction or sale of shabu took place. The totality of the evidence presented during the trial clearly points to the direct involvement of Bolantes in the illegal sale of shabu.

The Court notes that Bolantes did not raise an issue on the illegal sale of shabu for which he was arrested. Rather, he chose to question the chain of custody and the integrity of the *corpus delicti*. He claimed that the police operatives failed to comply with the procedure laid down in Section 21, Article II of R.A. No. 9165, which he claimed to have tainted the identity and integrity of the confiscated narcotic. He assailed the prosecution evidence for its failure to establish the proper chain of custody of the sachet of shabu seized from him. Bolantes insists that he is entitled to an acquittal.

Bolantes is mistaken.

In *People v. Cardenas*,¹² the Court held that the arrest of an accused will not be invalidated and the items seized from him rendered inadmissible on the sole ground of non-compliance with Section 21, Article II of R.A. No. 9165. It has been repeatedly stressed that what is essential is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.¹³

¹⁰ *People v. Dulay*, G.R. No. 194629, April 21, 2014.

¹¹ *People v. De la Cruz*, 591 Phil. 259, 269 (2008).

¹² G.R. No. 190342, March 21, 2012, 668 SCRA 827, 837.

¹³ *People v. SPO3 Ara y Mirasol*, 623 Phil. 939, 960 (2009).

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The Court agrees with the findings of the RTC and the CA that the authenticity and identity of the seized shabu were not compromised. The prosecution had adequately proven the continuous and unbroken possession and subsequent transfers of the subject sachet of shabu, through the testimony of PO2 Cipriano and the documentary evidence it adduced. They persuasively proved that the sachet of shabu presented in court was the same item seized from Bolantes during the buy-bust operation. Further, it bears stressing that PO2 Cipriano identified the seized shabu with certainty when this was presented in court. With regard to the handling of the confiscated sachet of shabu, no conflicting testimonies or glaring inconsistencies were found that would cast doubt on the integrity and identity thereof as the evidence presented and scrutinized in court. In sum, there is no question as to the integrity and identity of the evidence.

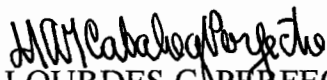
At any rate, the integrity of the evidence is presumed to have been preserved unless there is a showing of bad faith, ill will or proof that the evidence has been tampered with. He failed to present any plausible reason to impute ill motive on the part of the arresting officers. Thus, the testimony of PO2 Cipriano deserved full faith and credit.

Bolantes' pleas of denial and frame-up are unconvincing. Like alibi, frame-up as a defense has invariably been viewed with disfavor as it is a common and standard line of defense in most cases arising from violations of R.A. No. 9165. Clear and convincing evidence is required to prove the defense of frame-up¹⁴ which Bolantes failed to proffer.

WHEREFORE, the appeal is **DISMISSED**. The April 22, 2014 Decision of the Court of Appeals in CA-G.R. CR HC No. 05578 is **AFFIRMED**. Accused-appellant Pablito Bolantes is found **GUILTY** beyond reasonable doubt of the crime of Violation of Section 5, Article II of Republic Act No. 9165 for the illegal sale of 0.09 gram of methamphetamine hydrochloride and is sentenced to suffer the penalty of Life Imprisonment and to pay a Fine in the amount of Five Hundred Thousand Pesos (₱500,000.00). (*Brion, J., on leave, Bersamin, J., designated Acting Member, per Special Order No. 2079, dated June 29, 2015*)

SO ORDERED.

Very truly yours,


MA. LOURDES C. PERFECTO
Division Clerk of Court *file 7/27*

¹⁴ *People v. Cadley*, 469 Phil. 515, 527 (2004).

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Crim. Case No. 05-237502

THE DIRECTOR (reg)
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