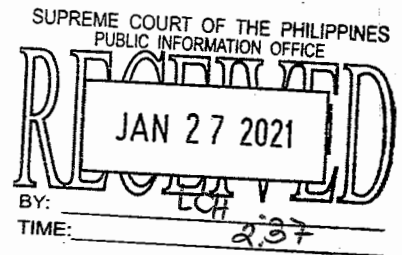




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **July 15, 2020**, which reads as follows:

“G.R. No. 248847 (People of the Philippines, Plaintiff-Appellee, v. Robert Kitane alias “Tata”, Accused-Appellant.) – We DENY the appeal from the 26 June 2019 Decision¹ of the Court of Appeals (CA) in CA-G.R. CEB CR HC No. 02832, which affirmed the 10 April 2017 Judgment² of Branch 34, Regional Trial Court (RTC) of Dumaguete City in Criminal Case Nos. 20679 and 20678 finding Robert Kitane alias “Tata” (accused-appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165, or the Comprehensive Dangerous Drugs Act of 2002.

In his appeal, accused-appellant asserts that the prosecution failed to prove his guilt beyond reasonable doubt for the offenses charged.

We are not persuaded.

Here, accused-appellant was charged with the offenses of illegal sale and illegal possession of dangerous drugs, defined and penalized under Sections 5 and 11, both under Article II of RA 9165. To obtain a conviction of the offense of illegal sale, the following elements must be proved: (a) the identity of the buyer and the seller, (b) the object of the sale and the consideration; and (c) the delivery of the thing sold and the payment.³ On the

¹ *Rollo*, pp. 5-17; penned by Associate Justice Gabriel T. Inglesand concurred in by Associate Justices Edward B. Contreras and Dorothy Montejo-Gonzaga of the Nineteenth Division, Court of Appeals, Cebu City.

² *CA rollo*, pp. 58-68; penned by Judge Rosendo B. Bandal, Jr.

³ See *People v. Crispo*, G.R. No. 230065, 14 March 2018, 859 SCRA 356, 369; *People v. Sanchez*, G.R. No. 231383, 07 March 2018, 858 SCRA 94, 104; *People v. Magsano*, G.R. No. 231050, 28 February 2018, 857 SCRA 142, 152; *People v. Manansala*, G.R. No. 229092, 21 February 2018, 856 SCRA 359, 369; *People v. Miranda*, G.R. No. 229671, 31 January 2018, 854 SCRA 42, 52; and *People v. Mamangon*, G.R. No. 229102, 29 January 2018, 853 SCRA 303, 312-313; all cases citing *People v. Sumili*, 753 Phil. 342-353 (2015); G.R. No. 212160, 04 February 2015, 750 SCRA 143, 149; and *People v. Bio*, 753 Phil. 730-740 (2015); 7G.R. No. 195850, 16 February 2015, 50 SCRA 572, 578.

other hand, the prosecution must establish the following elements in an illegal possession of dangerous drugs to warrant accused-appellant's conviction: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.⁴

Accused-appellant was found guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165 by both the RTC and CA. The prosecution was able to satisfactorily establish the offense charged as accused-appellant sold one (1) plastic sachet of *shabu* weighing 0.02 gram to PO2 Ayunting during a legitimate buy-bust operation. Both courts likewise found accused-appellant guilty beyond reasonable doubt of illegal possession of prohibited drugs as he was found unlawfully possessing a sachet containing 0.01 gram of *shabu*.

Jurisprudence holds that factual findings of the RTC, when affirmed by the CA, are entitled to great weight and respect by this Court and are deemed final and conclusive when supported by the evidence on record.⁵ Without any showing that the trial and the appellate courts overlooked certain facts and circumstances that could substantially affect the outcome, their rulings must be upheld.⁶ The Court has time and time again held that categorical and consistent positive identification, without any ill motive, prevails over *alibi* and denial.⁷

The Court likewise notes that the buy-bust team had sufficiently complied with the chain of custody rule under Section 21, Article II of RA 9165.

Case law states that in illegal sale and illegal possession of prohibited drugs, it is essential that the identity of the prohibited drug be established with moral certainty. In order to obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody of the same. It must be able to account for each link in the chain of custody over the dangerous drug from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.⁸

In the case at bar, the prosecution was able to clearly establish the integrity and evidentiary value of the seized sachets of *shabu*. After accused-appellant was arrested during the buy-bust operation, PO2 Ayunting had possession of the *shabu* he bought while SPO4 Germodo picked up the steel lighter with a plastic sachet of *shabu* inside that accused-appellant threw away

⁴ *People v. De Dios*, G.R. No. 243664, 22 January 2020.

⁵ *People v. Gerola*, 813 Phil. 1055-1069 (2017); G.R. No. 217973, 19 July 2017, 831 SCRA 469, 478.

⁶ *People v. Jao*, 810 Phil. 1028-1039 (2017); G.R. No. 225634, 07 June 2017, 827 SCRA 157, 167.

⁷ *People v. Ascarraga*, G.R. No. 222337, 23 July 2018.

⁸ *People v. Manalao*, 703 Phil. 101-115 (2013); G.R. No. 187496, 06 February 2013, 690 SCRA 106, 116.

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while eluding arrest. After having caught up with accused-appellant, PO2 Ayunting turned over to SPO4 Germodo the sachet he bought from accused-appellant. SPO4 Germodo retained possession of the sachets of drugs and marked the same in the place of arrest. Thereafter, the inventory was witnessed by a DOJ representative, media representative, and a local elective official, who all signed an inventory of the items taken from accused-appellant. Photographs were also taken by SPO4 Germodo during the conduct of the inventory. PO2 Ayunting brought the specimens for qualitative examination to the crime laboratory on the same day, which was received by PO1 Marvin Noble. PCI Llena received the specimens on the next day and examined the items. After laboratory analysis, the submitted specimens gave positive result to the presence of methamphetamine hydrochloride. Subsequently, the specimens were submitted to the trial court. From the foregoing, the Court holds that the police officers complied with the chain of custody rule. Thus, the integrity and evidentiary value of the *corpus delicti* had been duly preserved.

The prosecution established every single element of both offenses under Article II, Sections 5 and 11 of RA 9165 and proved that the police officers preserved the integrity and identity of the seized items beyond reasonable doubt. Thus, accused-appellant's conviction must be affirmed. Accordingly, the penalties of life imprisonment and a fine of P500,000.00 in Criminal Case No. 20679, and the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and a fine in the amount of P400,000.00 in Criminal Case No. 20678, which were imposed by the CA are sustained, being within the range provided by law.

WHEREFORE, the appeal is hereby **DENIED**. Accordingly, the 26 June 2019 Decision of the Court of Appeals in CA-G.R. CEB CR HC No. 02832, affirming the 10 April 2017 Judgment⁹ of Branch 34, Regional Trial Court of Dumaguete City in Criminal Case Nos. 20679 and 20678, finding Robert Kitane alias "Tata" (accused-appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. 9165, is **AFFIRMED**.

SO ORDERED."

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
6/15/2020

⁹ CA rollo, pp. 58-68.

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 34, 6200 Dumaguete City
(Crim. Case Nos. 20678 to 79)

Mr. Robert "Tata" Kitane
c/o The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Superintendent
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/s/oy

CA
(213) /s/oy
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