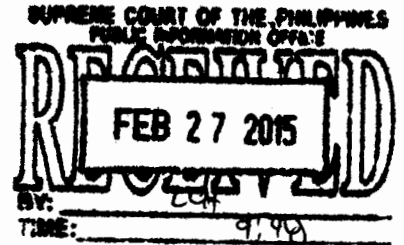




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **February 4, 2015**, which reads as follows:

“G.R. No. 212522 (*People of the Philippines vs. Alain Medrano Venzon and Rolando Casauran*). – This is an appeal from the Decision¹ dated June 21, 2013 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05379 which affirmed the conviction of Alain Medrano Venzon (Venzon) and Rolando Casauran (Casauran) (accused-appellants) for illegal sale of prohibited drugs.

Two informations² were filed against the accused-appellants. In Criminal Case No. 04-276, Venzon was accused of violating Section 15, Article 2 of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 for using *shabu*. He was again charged in Criminal Case No. 04-277 with a certain John Doe for violating Section 5, Article II of R.A. No. 9165 for illegal sale of *shabu*. The information in Criminal Case No. 04-277 was later amended to replace the John Doe with the name of Casauran.

During arraignment, the accused-appellants pleaded “not guilty”.

The evidence for the prosecution shows that on August 30, 2004, the Philippine Drug Enforcement Agency (PDEA) Regional Office III received an information which disclosed the peddling of *shabu* of the accused-appellants at Block BJ, Lot 5C, Sta. Lucia Resettlement, Magalang, Pampanga. After casing and surveillance of the area, a buy-bust team was formed headed by Chief Buenaventura Lopez with Police Officer 2 Richard Lambino (PO2 Lambino) and PO1 Antonio Barreras (PO1 Barreras) as members. PO2 Lambino was designated as poseur-buyer and PO1 Barreras as back-up. PO2 Lambino photocopied the ₱300 worth of 50-peso bills which were all marked with his initials to be used during the entrapment. The team afterwards proceeded to the area.³

¹ Penned by Associate Justice Rodil V. Zalameda, with Presiding Justice Andres B. Reyes, Jr. and Associate Justice Ramon M. Bato, Jr. concurring; CA *rollo*, pp. 107-118.

² Id. at 11-12.

³ Id. at 13-17.

Upon arrival, PO2 Lambino and the informant approached the accused-appellants where the former was introduced as a buyer of *shabu*. Venzon asked how much *shabu* PO2 Lambino was interested to buy and the latter replied ₱300.00. Venzon readily handed to PO2 Lambino one heat-sealed plastic sachet filled with white crystalline substance and the latter, in return, gave Casauran the ₱300.00 marked money in 50-peso denomination. Upon consummation of the sale, PO2 Lambino made the pre-arranged signal of scratching his head several times to inform the rest of the buy-bust team about it. When the rest of the police operatives arrived, PO2 Lambino introduced himself to Venzon and Casauran as a PDEA officer. He immediately arrested Venzon and apprised him of his constitutional rights. Casauran was able to escape with the buy-bust money. PO2 Lambino at once placed his markings on the confiscated small heat-sealed plastic sachet containing white crystalline substance and marked it with his initials "RML" and "AV". Venzon was taken to the PDEA Regional Office III for investigation. They also took him to the Philippine National Police (PNP) Crime Laboratory Office where he was tested positive for using *shabu*.⁴

At the PDEA Regional Office III, the small heat-sealed plastic sachet containing the white crystalline substance was documented as per Receipt of Property Seized. On the same day, PO2 Lambino prepared a letter requesting for the qualitative analysis of the white crystalline substance contained in the heat-sealed plastic sachet handed to him by Venzon during the entrapment. Then he submitted the letter-request and the white crystalline substance to be examined to the PNP Crime Laboratory Office. The chemical examination conducted on the subject specimen yielded positive for methamphetamine hydrochloride, or *shabu*, as evidenced by Chemical Report No. D-254-2004.⁵

In defense, the accused-appellants denied the charges against them. Venzon claimed that in the morning of August 30, 2004, he was at home with his live-in partner, Nora Tamayo and two sons when a group of three unknown men barged in. They warringly arrested him and, thereafter, forcibly brought him out of the house and boarded him in a van. Casauran, for his part, interposed an *alibi* that he was in Manila working as a house painter when the alleged incident happened. He further denied having known Venzon prior to his detention.⁶

⁴ Id.

⁵ Id. at 110-111.

⁶ Id. at 111.

Ruling of the Regional Trial Court

On October 24, 2011, the Regional Trial Court (RTC) of Angeles City, Branch 57, rendered a Decision⁷ convicting the accused-appellants in Criminal Case No. 04-277 for illegal sale of *shabu* and dismissing Criminal Case No. 04-276 for insufficiency of evidence. They were sentenced to suffer life imprisonment and to pay a fine in the amount of ₱500,000.00.⁸

In ruling for conviction, the trial court accorded full weight and credence to the testimonies of PO2 Lambino and PO1 Barreras who positively identified the accused-appellants as the peddlers of *shabu* during the entrapment. The RTC pointed out that the testimonies of law enforcers carry the legal presumption of regularity in the performance of their official duty absent any ground shown to the contrary. The trial court further debunked the defenses of denial and frame-up of the accused-appellants for being self-serving and uncorroborated.

Ruling of the CA

On appeal, the CA agreed with the trial court's factual findings that the evidence of the prosecution sufficiently established the elements of illegal sale of *shabu*. The CA emphasized that "the only elements necessary to consummate the crime of illegal sale of drugs is proof that the illicit transaction took place, coupled with the presentation in court of the *corpus delicti* or the illicit drug as evidence."⁹ The CA also discussed that the non-presentation of the buy-bust money during the trial is not fatal to the case and is merely corroborative in nature and that the non-presentation of the same was justified by the fact of Casauran's escape at the time when the arrest was being made.¹⁰ In upholding the testimony of the prosecution witnesses, the CA also opined that the failure of PO1 Barreras to corroborate the statement of PO2 Lambino is of no moment since the latter was sufficiently credible in his testimony for having been designated as the poseur-buyer who personally transacted with the accused-appellants unlike the latter who merely acted as back-up. The CA also conformed to the trial court's finding in favor of the presumption of the regularity of the actions done by the PDEA officers there being no finding of any ill motive or malice, or even neglect in the performance of their official duties. As to the credibility of the *corpus delicti*, the CA aptly explained that non-compliance with Section 21 of R.A. No. 9165 does not necessarily render the items seized inadmissible in evidence since strict compliance thereof is not mandatory as long as the integrity and evidentiary value of the *shabu* has been preserved.

⁷ Issued by Judge Omar T. Viola; id. at 11-24.

⁸ Id. at 24.

⁹ Id. at 114.

¹⁰ Id.

Ruling of the Court

The Court affirms the conviction of the accused-appellants.

The prosecution competently and convincingly established the essential elements of illegal sale of *shabu*, to wit: (a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing. What is material in prosecutions for illegal sale of *shabu* is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence.¹¹

In the present case, all these elements have been duly established by the prosecution, to wit: (1) PO2 Lambino acted as poseur-buyer to entrap the accused-appellants who were tipped to be selling *shabu*; (2) PO2 Lambino, as poseur-buyer, tendered six 50-peso marked bills amounting to ₱300.00 to Casauran after having been handed a small pack of *shabu* by Venzon; and (3) the chemistry report conducted on the specimen positively resulted to *shabu* with a total weight of 0.1505 gram. Hence, no cogent reason exists to disturb the factual findings of the RTC, as affirmed by the CA.

Moreover, the Court finds no merit in the accused-appellants' contention regarding the non-presentation of the buy-bust money as well as the failure of PO1 Barreras to corroborate the testimony of PO2 Lambino. As correctly explained by the CA, such arguments do not affect the *lis mota* of the case considering that all the necessary elements for the prosecution of the crime have been duly proved. Thus, their contention must fail as they were undeniably caught *in flagrante delicto* of illegally selling *shabu*, a violation of Section 5, Article II of R.A. No. 9165.

Penalty and Indemnities

The Court affirms the penalty imposed by the RTC, as affirmed by the CA, as it is well within the range provided by law. The first paragraph of Section 5,¹² Article II of R.A. No. 9165 prescribes a penalty of life imprisonment to death¹³ and a fine ranging from Five Hundred Thousand pesos (₱500,000.00) to Ten Million pesos (₱10,000,000.00) against any person who shall illegally sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous

¹¹ *People v. Bautista*, G.R. No. 177320, February 22, 2012, 666 SCRA 518, 529-530.


¹² **Sec. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.** – 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 sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

¹³ The imposition of the death penalty has been proscribed with the effectivity of R.A. No. 9346, or AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES.

drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

WHEREFORE, in consideration of the foregoing premises, the Decision dated June 21, 2013 of the Court of Appeals in CA-G.R. CR-H.C. No. 05379 is **AFFIRMED.**" (**Jardeleza, J.**, no part in view of participation in the Office of the Solicitor General; **Sereno, C.J.**, designated additional member per Raffle dated October 27, 2014.)

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court
2/17/15

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The Presiding Judge
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(Crim. Case Nos. DC-04-276 to 277)

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