



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 256242**

Plaintiff-Appellee,

Present:

LEONEN, S.A.J., *Chairperson,*

LAZARO-JAVIER,

LOPEZ, M.,

LOPEZ, J., *and*

KHO, JR.,* *JJ.*

— *versus* —

MARK ANTHONY PAGUINTO
y WANIWAN,

Accused-Appellant.

Promulgated:

JAN 18 2023

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DECISION

M. LOPEZ, J.:

The failure to allege in the Information the quantity or weight of the dangerous drugs is not fatal to sustain a judgment of conviction. At most, such omission will only affect the penalty to be imposed upon the accused. We apply this rule in the appeal¹ assailing the Court of Appeals' Decision² dated October 14, 2020 in CA-G.R. CR-HC No. 09860.

* On leave.

¹ CA *rollo*, pp. 145-146.

² *Rollo*, pp. 4-27. Penned by Associate Justice Walter S. Ong, with the concurrence of Associate Justices Japar B. Dimaampao (now a Member of this Court) and Tita Marilyn B. Payoyo-Villordon of the Special Third Division, Court of Appeals, Manila.

✓

ANTECEDENTS

Mark Anthony Paguinto (Mark Anthony) was charged with illegal sale and possession of dangerous drugs before the Regional Trial Court (RTC), Branch 156, Marikina City docketed as Criminal Case Nos. 2014-4420-D-MK and 2014-4421-D-MK, respectively, to wit:

*Criminal Case No. 2014-4420-D-MK
For Illegal Sale of Dangerous Drugs*

That on or about the 23rd day of August 2014, in the City of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and knowingly sell, deliver and give away to PO2 Ronel P. Agsawa, acting as poseur[-]buyer, a plastic sachet subsequently marked as "MAP-BUYBUST 8/23/14" containing 1.10 grams of Methamphetamine Hydrochloride (shabu), a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.³

*Criminal Case No. 2014-4221-D-MK
For Illegal Possession of Dangerous Drugs*

That on or about the 23rd day of August 2014, in the City of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess or otherwise use any dangerous drugs, did then and there willfully, unlawfully and knowingly have in his possession, direct custody and control three (3) plastic sachets subsequently marked as "MAP-1 8/23/14," "MAP-2 8/23/14" and "MAP-3 8/23/14," respectively, all containing Methamphetamine Hydrochloride (shabu), a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁴

Mark Anthony pleaded not guilty. Trial then ensued.⁵ The prosecution established that on August 23, 2014 at around 11:00 a.m., a confidential informant reported to Police Officer 2 Ronel Agsawa (PO2 Agsawa) of the Station Anti-Illegal Drugs Special Operations Task Group (SAIDSOTG) that a certain *alias* Bornok was selling illegal drugs along H. Bautista Street, Concepcion I, Marikina City. PO2 Agsawa relayed the information to Police Inspector Jerry Flores (P/Insp. Flores) who formed an entrapment team and designated PO2 Agsawa as the poseur-buyer. The team prepared the buy-bust money, pre-operation report, and coordination form with the Philippine Drug Enforcement Agency and the District Anti-Illegal Drugs-Eastern Police District.⁶

³ CA rollo, p. 59.

⁴ *Id.* at 59-60.

⁵ Rollo, p. 6.

⁶ *Id.* at 7-8.

On the same day at 6:00 p.m., the authorities and the informant proceeded to the target area. PO2 Agsawa and the informant positioned themselves at the corner of H. Bautista and G. Molina Streets, while the rest of the team observed nearby. About 7:40 p.m., a black motorcycle arrived. The informant told PO2 Agsawa that the rider was Bornok. The informant approached Bornok and introduced him to PO2 Agsawa as a “scorer ng *shabu*.” Bornok asked how much he wanted to buy to which PO2 Agsawa replied, “one-fourth lang.” PO2 Agsawa gave the buy-bust money to Bornok who put it in his right pocket. From his left pocket, Bornok took one plastic sachet containing a white crystalline substance and handed it to PO2 Agsawa. After receiving the sachet, PO2 Agsawa placed it inside his pocket, held Bornok’s arm, and arrested him. The back-up team rushed to assist PO2 Agsawa and Bornok was identified as Mark Anthony Paguinto y Waniwan. PO2 Agsawa frisked Mark Anthony and recovered from his right pocket the buy-bust money and from his left pocket one big sachet containing three small sachets of a white crystalline substance.⁷

At the place of arrest, PO2 Agsawa marked the sachet subject of the sale with “MAP-BUYBUST 8/23/14” and the three small sachets and one big empty sachet with “MAP-1 8/23/14,” “MAP-2 8/23/14,” “MAP-3 8/23/14” and “MAP-4 8/23/14,” respectively.⁸ PO2 Agsawa accomplished the inventory of evidence, inventory of non-drug evidence, and the chain of custody form. P/Insp. Flores took photographs of the procedure. The marking, inventory, and photography were witnessed by Vice Mayor Jose Cadiz (Vice Mayor Cadiz), Councilor Ronnie Acuña (Councilor Acuña), Barangay Kagawad Enrique Cruz (Kagawad Cruz), and Cesar Barquilla (Barquilla) of Remate. The police brought Mark Anthony to the SAIDSOTG office. At all times, PO2 Agsawa remained in custody of the seized items. At the police station, the team prepared the request for laboratory examination on seized evidence.⁹

At 10:20 p.m., PO2 Agsawa delivered the four sachets containing suspected *shabu*, one big empty sachet, and the corresponding letter-request to the Eastern Police District Crime Laboratory Office. Police Chief Inspector Margarita Libres (PC/Insp. Libres) received the items.¹⁰ After forensic examination, PC/Insp. Libres reported that the four specimens yielded positive result for methamphetamine hydrochloride.¹¹ PC/Insp. Libres sealed and marked each specimen with her initials and signature. PC/Insp. Libres then placed the specimens inside a bigger plastic sachet and surrendered them to the evidence custodian for safekeeping. On October 21, 2014, PC/Insp. Libres withdrew the specimens from the evidence custodian and submitted them to the RTC.¹²

⁷ *Id.* at 8–9.

⁸ *CA rollo*, p. 61.

⁹ *Rollo*, pp. 9–10.

¹⁰ *CA rollo*, p. 96.

¹¹ *Rollo*, pp. 9–10.

¹² *Id.* at 20–21. Referred to Transcript of Stenographic Notes dated 21 October 2014, p. 19.

Lastly, PO2 Agsawa testified how Mark Anthony was apprehended during a legitimate buy-bust operation and how he preserved the drugs from the moment they were confiscated until they were transmitted to the crime laboratory. PO1 Angie Oca, P/Insp. Flores and Vice Mayor Cadiz corroborated PO2 Agsawa's testimony. PC/Insp. Libres further narrated that she personally received the seized items from PO2 Agsawa at the crime laboratory, conducted qualitative and quantitative examinations, and later, personally submitted them to the court.¹³

Mark Anthony denied the accusations and claimed that in the afternoon of August 23, 2014, he was driving his motorcycle with Nicole Dela Sierra Sarmiento (Nicole), his common-law wife, when five men blocked their way along H. Bautista Street. The group ordered Mark Anthony to alight, frisked him, and allegedly found illegal drugs on his person. Vice Mayor Cadiz and Councilor Acuña later arrived. Mark Anthony was beaten and taken to the police station where he was incarcerated.¹⁴ Nicole confirmed that armed men accosted her and Mark Anthony. Nicole was left by the roadside when the men took Mark Anthony to the Philippine National Police headquarters. A certain Officer Opelac asked them to pay PHP 150,000.00 to settle the case but they did not have money.¹⁵

On May 9, 2017, the RTC found Mark Anthony guilty of the charges,¹⁶ thus:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. 2014-4420-D-MK, finding the accused MARK ANTHONY PAGUINTO y WANIWAN @ "Bornok" guilty beyond reasonable doubt of violation of Section 5, Article II, R.A. No. 9165. Accused is sentenced to suffer the penalty of LIFE IMPRISONMENT, and to pay a fine of P500,000.00;

2. In Criminal Case No. 2014-4421-D-MK, finding the accused MARK ANTHONY PAGUINTO y WANIWAN @ "Bornok" guilty beyond reasonable doubt of violation of Section 11, Article II, R.A. No. 9165. Accused is sentenced to suffer an indeterminate prison term of TWELVE (12) YEARS and ONE (1) DAY as minimum, to FOURTEEN (14) YEARS as maximum. Accused is also ordered to pay a fine of P300,000.00.

Said penalties shall be served by the accused simultaneously.

Let the illegal drugs subject of Criminal Case Nos. 2014-4420 and 4421-D-MK be turned over to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

¹³ CA rollo, pp. 60-61.

¹⁴ Rollo, pp. 10-11; CA rollo, pp. 62-63.

¹⁵ Rollo, pp. 10-11; CA rollo, pp. 61-62.

¹⁶ CA rollo, pp. 59-66. Penned by Judge Anjanette N. De Leon Ortile.

The concerned evidence custodian of PNP Marikina City is directed to return to the accused the motorcycle confiscated from him as described in the inventory of Non-Drug Evidence.

Send copies of this Decision to the PDEA, the National Police Commission (NAPOLCOM) and the Office of the Vice Mayor, Marikina City.

SO ORDERED.¹⁷

Mark Anthony appealed to the Court of Appeals, docketed as CA-G.R. CR-HC No. 09860.¹⁸ Mark Anthony maintained that the prosecution failed to present the confidential informant to testify on the circumstances surrounding the sale. It was the informant who personally transacted with the seller, and not PO2 Agsawa who was merely introduced as a scorer of *shabu*. Moreover, there was a break in the chain of custody. PO2 Agsawa claimed that he endorsed the letter-request and four confiscated sachets for drug examination to PC/Insp. Libres. However, PC/Insp. Libres stated that she was unfamiliar with the name of PO2 Agsawa as the requesting party.¹⁹

On the other hand, the People of the Philippines, represented by the Office of the Solicitor General (OSG), countered that all the elements of illegal sale and possession of dangerous drugs were proven beyond reasonable doubt. More importantly, the prosecution presented an unbroken chain of custody. Specifically, the stamp markings on the letter-requests clearly provided that the drug specimens were delivered by PO2 Agsawa to PC/Insp. Libres on August 23, 2014 at 10:20 p.m.²⁰

On October 14, 2020, the CA denied the appeal. The CA held that the prosecution proved all the elements of illegal sale and possession of dangerous drugs. The prosecution likewise preserved the integrity of the confiscated drugs and established an unbroken chain of custody.²¹ However, the CA deleted the RTC's directive for simultaneous service of penalties, thus:

The appeal is DENIED. The Decision dated 09 May 2017 rendered by Branch 156 of the Regional Trial Court, National Capital Judicial Region, Marikina City in Criminal Cases (*sic*) No. 2014-4420-D-MK and Criminal Case No. 2014-4421-D-MK finding appellant Mark Anthony Paguinto y Waniwan guilty beyond reasonable doubt of violation of Sections 5 and 11, of Article II of Republic Act No. 9165, is AFFIRMED, with MODIFICATION in that the directive for the simultaneous service of the penalties imposed in both cases is DELETED.

IT IS SO ORDERED.²²

¹⁷ *Id.* at 65-66.

¹⁸ *Id.* at 16-17.

¹⁹ *Id.* at 39-57.

²⁰ *Id.* at 82-108.

²¹ *Rollo*, pp. 4-27.

²² *Id.* at 26.

Hence, this recourse.²³ The parties opted not to file supplemental briefs considering that all issues have already been exhaustively discussed in their pleadings before the CA.²⁴ Mark Anthony reiterates that he must be acquitted due to the non-presentation of the confidential informant and the broken chain of custody.²⁵

RULING

The appeal is unmeritorious.

The elements of illegal sale of dangerous drugs are: (1) the identities of the buyer and seller; (2) the transaction or sale of the illegal drug; and (3) the existence of the *corpus delicti*.²⁶ Here, the consistent and straightforward testimony of PO2 Agsawa proved these elements. As the poseur-buyer, PO2 Agsawa pointed to Mark Anthony as the seller from whom he bought a sachet of *shabu* for PHP 2,500.00. PO2 Agsawa narrated in detail how the sale transpired: from the moment he and the informant arrived at the corner of H. Bautista and G. Molina Streets and waited for Mark Anthony to arrive, until the time PO2 Agsawa handed the marked money in exchange for one plastic sachet containing 1.10 grams of a white crystalline substance.²⁷ More importantly, the substance tested positive for methamphetamine hydrochloride, a dangerous drug.²⁸ Thus, the delivery of the illicit drug to PO2 Agsawa and the consequent receipt by Mark Anthony of the buy-bust money consummated the sale, *viz.*:

Q: So upon seeing the person of your target individual, what did you do?

A: He was staying at the corner, we approached alias "Bornok" and I was introduced to him by my CI, Sir.

Q: How did your confidential informant introduce you to alias "Bornok"?

A: Bale po sinabi niya na bibili po ako, na scorer po ako ng shabu, Sir. He said that I will buy shabu, that I am "scorer ng shabu," Sir.

Q: And what was the response of alias "Bornok"?

A: When he asked me how much I will buy, I told him it's one-fourth (1/4) lang, P're, Sir.

Q: And after telling alias "Bornok," the words "one fourth (1/4) lang, P're," what was his reply to you, if any?

A: He asked the money na [PHP] 2,500.00 and then put it in his right pocket and after that he took from his left pocket one (1) plastic sachet and he got one (1) piece and gave it to me, Sir.

²³ *Id.* at 32.

²⁴ *Rollo*, pp. 36–38, 45–47.

²⁵ *CA rollo*, pp. 46–55.

²⁶ *People v. De Guzman*, 825 Phil. 43 (2018) [Per J. Del Castillo, First Division].

²⁷ *Rollo*, pp. 8–9.

²⁸ *Id.* at 9–10.

Q: And what did you do with that plastic sachet that was handed to you at that time?

A: When he handed it to me, I placed it in my pocket, Sir.²⁹

Contrary to Mark Anthony's theory, the presentation of an informant is not a requisite in the prosecution of drug cases.³⁰ The testimony of the informant would be merely corroborative of and cumulative with that of the poseur-buyer who was presented in court, and who testified on the facts and circumstances of the sale and delivery of the prohibited drugs.³¹ Besides, informants are usually not presented in court considering the need to hide their identities and preserve their invaluable services to the police.³² The testimony of the informant may be dispensed with, unless: (a) the accused vehemently denies selling prohibited drugs and there are material inconsistencies in the testimonies of the arresting officers; (b) there are reasons to believe that the arresting officers had motives to falsely testify against the accused; or (c) only the informant was the poseur-buyer who actually witnessed the entire transaction.³³ None of the exceptions obtains in this case. Again, the presentation of the informant was no longer necessary precisely because of the testimony of PO2 Agsawa, who recounted a first-hand account of the transaction as the poseur-buyer.³⁴ The informant's participation was limited to introducing PO2 Agsawa as a "scorer ng *shabu*" to Mark Anthony. PO2 Agsawa's narration was also supported by the testimony of P/Insp. Flores as the team leader of the buy-bust operation.³⁵ Taken together, proof of the transaction between PO2 Agsawa and Mark Anthony was credible and complete.

On the other hand, the element of illegal possession of dangerous drugs are: (a) the accused was in possession of an item or object identified to be a prohibited or regulated drug; (b) the possession is not authorized by law; and (c) the accused freely and consciously possessed the drug.³⁶ Here, the prosecution established that after the sale, PO2 Agsawa frisked Mark Anthony, and recovered one big sachet containing three small sachets of a white crystalline substance from his left pocket,³⁷ which later yielded a positive result for methamphetamine hydrochloride, a dangerous drug.³⁸ Mark Anthony did not offer any satisfactory explanation why he was in possession of the dangerous drugs. Hence, there is *prima facie* evidence of his intent to possess the seized items.³⁹

²⁹ CA rollo, pp. 102–103.

³⁰ *People v. Naquita*, 582 Phil. 422 (2008) [Per J. Chico-Nazario, Third Division]; *People v. Cheng Ho Chua*, 364 Phil. 497 (1999) [Per J. Panganiban, Third Division].

³¹ *People v. Judge Lagos*, 705 Phil. 570 (2013) [Per C.J. Sereno, First Division]; *People v. Andres*, 656 Phil. 619 (2011) [Per J. Mendoza, Second Division].

³² *People v. Andres*, 656 Phil. 619 (2011) [Per J. Mendoza, Second Division]; *People v. Naquita*, 582 Phil. 422 (2008) [Per J. Chico-Nazario, Third Division].

³³ *Id.*

³⁴ CA rollo, pp. 102–103. Referred to TSN dated 17 November 2014, p. 13. PO2 Agsawa's testimony.

³⁵ *Id.* at 63.

³⁶ *People v. Quijano*, G.R. No. 247558, February 19, 2020 [Per J. Lazaro-Javier, First Division]; *People v. Manansala*, 826 Phil. 578 (2018) [Per J. Perlas-Bernabe, Second Division]; *People v. Que*, 824 Phil. 882 (2018) [Per J. Leonen, Third Division]; *People v. Morales*, 630 Phil. 215 (2010) [Per J. Del Castillo, Second Division].

³⁷ Rollo, pp. 8–9.

³⁸ *Id.*

³⁹ See *People v. Eda*, 793 Phil. 885 (2016) [Per J. Peralta, Third Division]; *Miclat, Jr. v. People*, 627 Phil. 191 (2011) [Per J. Peralta, Third Division]; *Sy v. People*, 671 Phil. 164 (2011) [Per J. Peralta, Third Division].

In both illegal sale and possession of dangerous drugs, the contraband itself constitutes the very *corpus delicti* of the offenses and the fact of its existence is vital to a judgment of conviction.⁴⁰ Thus, it is essential to ensure that the substance recovered from the accused is the same substance offered in court.⁴¹ Indeed, the prosecution must satisfactorily establish the movement and custody of the seized drug through the following links: (1) the confiscation and marking of the specimen seized from the accused by the apprehending officer; (2) the turnover of the seized item by the apprehending officer to the investigating officer; (3) the investigating officer's turnover of the specimen to the forensic chemist for examination; and, (4) the submission of the item by the forensic chemist to the court.⁴² Particularly, Article II, Section 21 of Republic Act (RA) No. 9165, as amended by RA No. 10640,⁴³ outlines the post-seizure procedure for the custody and disposition of seized drugs, to wit:

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 shall take charge and have custody of all dangerous drugs, ... so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the dangerous drugs, ... shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media 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, finally*, That noncompliance of 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 and custody over said items.⁴⁴

⁴⁰ *People v. Partoza*, 605 Phil. 883 (2009) [Per J. Tinga, Second Division]. See also *People v. Cariño*, G.R. No. 233336, January 14, 2019 [Per J. Perlas-Bernabe, Second Division].

⁴¹ *People v. Ismael*, 806 Phil. 21 (2017) [Per J. Del Castillo, First Division].

⁴² *People v. Bugtong*, 826 Phil 628 (2018) [Per J. Del Castillo, First Division].

⁴³ Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002'," approved on July 15, 2014.

⁴⁴ This is implemented by Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165 which states:

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 shall take charge and have custody of all dangerous drugs, ... so confiscated, seized and/or surrendered, for proper disposition in the following manner:

The law mandates that the officer taking initial custody of the drug shall, immediately after seizure and confiscation, conduct the physical inventory and photograph the drugs in the presence of the accused or the person/s from whom such items were confiscated and/or seized or their representative or counsel, an elected public official, and a representative from the media or the National Prosecution Service of the Department of Justice,⁴⁵ who shall be required to sign the copies of the inventory and be given a copy thereof. The crimes, in this case, were committed on August 23, 2014, or after the effectivity of the amendatory law,⁴⁶ which relaxed the requirement on insulating witnesses, and now allows the physical inventory to be made at the nearest police station or office of the apprehending team, whichever is practicable. Further, Section 21 of the Implementing Rules and Regulations of RA No. 9165 provides that deviation from the procedure would not *ipso facto* render the seizure and custody over the items void and invalid, provided that the prosecution satisfactorily proves that there is a justifiable ground for noncompliance, and the integrity and evidentiary value of the seized items were properly preserved. For the saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and prove the justifiable ground for noncompliance as a fact.⁴⁷

Here, the prosecution sufficiently established the movement and custody of the seized drugs. At the place of arrest, PO2 Agsawa marked the seized items as follows: (a) the sachet subject of the sale was marked with “MAP-BUYBUST 8/23/14;” and (b) the three small sachets recovered from Mark Anthony were respectively marked with “MAP-1 8/23/14”, “MAP-2 8/23/14” and “MAP-3 8/23/14.” PO2 Agsawa accomplished the inventory of evidence, inventory of non-drug evidence, and the chain of custody form. P/Insp. Flores took photographs of the procedure. The marking, inventory and photography were witnessed by elected public officials Vice Mayor Cadiz, Councilor Acuña and Barangay Kagawad Cruz,

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- (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 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 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.

....

⁴⁵ The National Prosecution Service falls under the Department of Justice. See Section 1 of Presidential Decree No. 1275, entitled “REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE,” dated April 11, 1978; and Section 3 of RA No. 10071, entitled, “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE,” otherwise known as the “PROSECUTION SERVICE ACT OF 2010,” which lapsed into law on April 8, 2010.

⁴⁶ RA No. 10640 states that it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” Verily, a copy of the law was published on July 23, 2014 in the respective issues of “The Philippine Star” (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and the “Manila Bulletin” (Vol. 499, No. 23, World News section, p. 6). Hence, RA No. 10640 became effective on August 7, 2014.

⁴⁷ See *People v. Suarez*, G.R. No. 249990, July 8, 2020 [Per *J. Perlas-Bernabe*, Second Division].

together with media representative Barquilla. The team then brought Mark Anthony to the SAIDSOTG office. At all times, PO2 Agsawa remained in custody of the seized items. At the police station, the team prepared the request for laboratory examination on seized evidence. Thereafter, PO2 Agsawa delivered the four sachets containing suspected *shabu* and the corresponding letter-request to the crime laboratory. PC/Insp. Libres received the items.⁴⁸ After forensic examination, PC/Insp. Libres reported that the four specimens containing white crystalline substance yielded positive result for methamphetamine hydrochloride.⁴⁹ PC/Insp. Libres sealed and marked each specimen with her initials and signature. PC/Insp. Libres then placed the specimens inside a bigger plastic sachet and surrendered them to the evidence custodian for safekeeping. Later, PC/Insp. Libres withdrew the specimens from the evidence custodian and submitted them to the trial court.⁵⁰ During trial, the specimens were identified by PO2 Agsawa as the same drugs he seized from Mark Anthony.⁵¹ The records showed the continuous custody of the seized drugs from the time they were confiscated from Mark Anthony until the time they were presented to the court and offered in evidence.

All told, this Court finds no reversible error on the part of the CA in affirming the RTC's judgment of conviction. Anent the penalty, the CA and the RTC properly imposed life imprisonment and a fine of PHP 500,000.00 for the crime of illegal sale of dangerous drugs. In illegal possession of dangerous drugs, however, the Court observes that the information failed to allege the quantity or weight of the seized items. Yet, this is not fatal to the prosecution's case. The records show that the buy-bust team weighed the drugs at the SAIDSOTG office and specified their respective weights in the request for laboratory examination, thus:

The request was accompanied by four (4) heat-sealed transparent plastic sachets each containing white crystalline substance, with the following markings and net weights:

- A - ("MAP-BUYBUST 8/23/14") – 1.10 grams
- B - ("MAP-1 8/23/14") – 0.20 gram**
- C - ("MAP-2 8/23/14") – 0.50 gram**
- D - ("MAP-3 8/23/14") – 0.20 gram**
- E - One (1) open empty transparent plastic sachet with marking "MAP-4 8/23/14."⁵² (Emphasis supplied)

At most, the drug's weight is crucial to determine only the penalty prescribed for the offense. Absent any clear interpretation on the application of penalties, penal provisions shall be strictly construed against the State and liberally

⁴⁸ CA rollo, p. 96.

⁴⁹ Rollo, pp. 9–10.

⁵⁰ *Id.* at 20–21. Referred to TSN dated 21 October 2014, p. 19.

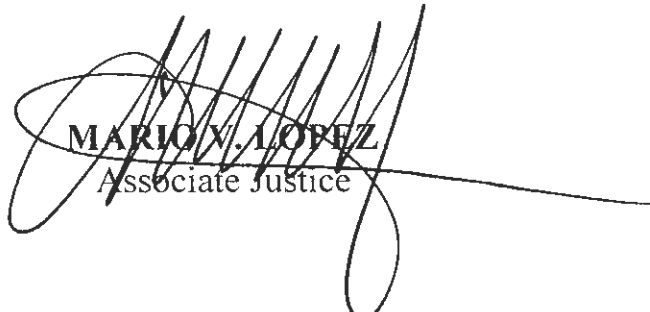
⁵¹ *Id.* at 17–18; CA rollo, p. 61.

⁵² CA rollo, p. 61.

in favor of the accused.⁵³ Accordingly, in case of failure to allege in the information the quantity or weight of the dangerous drugs, the lowest possible penalty must be imposed. Article II, Section 11 of RA No. 9165 is explicit that the penalty for illegal possession is imprisonment of 12 years and one day to 20 years and a fine ranging from PHP 300,000.00 to PHP 400,000.00 if the quantity of the dangerous drugs is less than five grams of methamphetamine hydrochloride or *shabu*. Hence, the CA and the RTC properly imposed the penalty of imprisonment of twelve (12) years and one (1) day to fourteen (14) years and a fine of PHP 300,000.00 for illegal possession of drugs weighing a total of 0.90 gram or less than five grams of *shabu*.

ACCORDINGLY, the appeal is **DISMISSED**. The Court of Appeal's Decision dated October 14, 2020 in CA-G.R. CR-HC No. 09860 is **AFFIRMED**. Accused-appellant Mark Anthony Paguinto y Waniwan is found **GUILTY** of: (a) violation of Article II, Section 5 of Republic Act No. 9165, and is sentenced with life imprisonment and a fine of PHP 500,000.00; and (b) violation of Article II, Section 11 of Republic Act No. 9165, and is sentenced with imprisonment of twelve (12) years and one (1) day to fourteen (14) years and a fine of PHP 300,000.00.

SO ORDERED.


MARIO V. LOPEZ
 Associate Justice

WE CONCUR:


MARVIC M.V. F. LEONEN
 Senior Associate Justice
 Chairperson


AMY C. LAZARO-JAVIER
 Associate Justice


JHOSEP Y. LOPEZ
 Associate Justice

On leave
ANTONIO T. KHO, JR.
 Associate Justice

⁵³ *David v. People*, 675 Phil. 182 (2011) [Per J. Peralta, Third Division].

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.



MARVIC M.V. F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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.



ALEXANDER G. GESMUNDO
Chief Justice