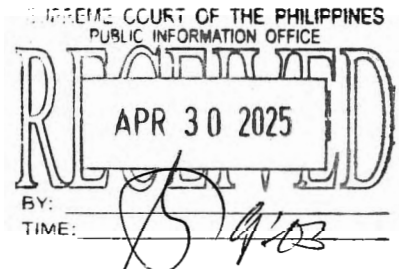




Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION



PEOPLE OF THE
PHILIPPINES,

Plaintiff-appellee,

- versus -

EDGARDO BERNARDINO y
TAMAYO a.k.a. "TOTONG,"
Accused-appellant.

G.R. No. 265434

Present:

LEONEN, S.A.J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.
LOPEZ, J., and
KHO, JR., JJ.

Promulgated:

MAR 03 2025

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DECISION

KHO, JR., J.:

Before the Court is an ordinary Appeal¹ assailing the Decision² dated October 12, 2021 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 14657, which affirmed *in toto* the Decision³ dated July 7, 2020 of Branch 164, Regional Trial Court (RTC), Pasig City. The assailed Decision finds Edgardo Bernardino y Tamayo a.k.a. "Totong" (Bernardino) guilty beyond reasonable doubt of the crime of illegal sale and illegal use of dangerous drugs, respectively defined and penalized under Article II, Sections 5 and 15 of Republic Act (R.A.) No. 9165.

¹ Rollo, pp. 3–4. See Notice of Appeal dated November 2, 2021.

² *Id.* at 8–30. The Decision dated October 12, 2021 was penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Geraldine C. Fiel-Macaraig and Angelene Mary W. Quimpo-Sale of the Eighth Division, Court of Appeals, Manila.

³ *Id.* at 33–49. The July 7, 2020 Decision was penned by Presiding Judge Jennifer Albano Pilar of Branch 164, Regional Trial Court, Pasig City.

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The Facts

This case stemmed from two Informations⁴ filed before the RTC charging Bernardino of the aforementioned crimes. The accusatory portions of the said Informations read:

Criminal Case No. R-PSG-19-01490-CR
(for Illegal Sale of Dangerous Drugs)

On or about June 4, 2019, in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being authorized by law, did then and there willfully, unlawfully and knowingly sell, deliver and give away to IO1 Randy M. Ruiz, a PDEA poseur-buyer, the following:

- a. One (1) transparent plastic-wrapped brick containing 379.54 grams of dried leaves (subsequently marked 'RMR BB-A-1 06-04-19 with signature');
- b. One (1) self-sealing transparent plastic bag containing 24.16 grams of dried leaves (subsequently marked 'RMR BB-A-2 06-04-19 with signature');
- c. One (1) self-sealing transparent plastic bag containing 20.42 grams of dried leaves (subsequently marked 'RMR BB-A-3 06-04-19 with signature');
- d. One (1) self-sealing transparent plastic bag containing 16.78 grams of dried leaves (subsequently marked 'RMR BB-A-4 06-04-19 with signature');
- e. One (1) self-sealing transparent plastic bag containing 27.69 grams of dried leaves (subsequently marked 'RMR BB-A-5 06-04-19 with signature');
- f. One (1) self-sealing transparent plastic bag containing 31.28 grams of dried leaves (subsequently marked 'RMR BB-A-6 06-04-19 with signature');
- g. One (1) self-sealing transparent plastic bag containing 28.35 grams of dried leaves (subsequently marked 'RMR BB-A-7 06-04-19 with signature');
- h. One (1) self-sealing transparent plastic bag containing 49.14 grams of dried leaves (subsequently marked 'RMR BB-A-8 06-04-19 with signature');

⁴ *Id.* at 9-11.

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- i. One (1) self-sealing transparent plastic bag containing 34.49 grams of dried leaves (subsequently marked 'RMR BB-A-9 06-04-19 with signature');
- j. One (1) self-sealing transparent plastic bag containing 21.52 grams of dried leaves (subsequently marked 'RMR BB-A-10 06-04-19 with signature');
- k. One (1) self-sealing transparent plastic bag containing 27.11 grams of dried leaves (subsequently marked 'RMR BB-A-11 06-04-19 with signature');
- l. One (1) self-sealing transparent plastic bag containing 12.26 grams of dried leaves (subsequently marked 'RMR BB-A-12 06-04-19 with signature'); and
- m. One (1) heat-sealed transparent plastic bag containing 5.71 grams of dried leaves (subsequently marked 'RMR BB-A-13 06-04-19 with signature').

with a total weight of 678.45 grams, which were found positive to the tests for the presence of Marijuana, a dangerous drug, in violation of the said Law.

CONTRARY TO LAW.⁵

Criminal Case No. R-PSG-19-01491-CR
(for Illegal Use of Dangerous Drugs)

On or about 04 June 2019, in Pasig City, and within the jurisdiction of this Honorable Court, the said accused, not being lawfully authorized by law to use any dangerous drug, did then and there willfully, unlawfully and knowingly use, smoke and ingest into his body the dangerous drug of marijuana and after a confirmatory urine test was found positive for the presence of marijuana and THC metabolite, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁶

The prosecution alleged that at 2:00 p.m. of June 3, 2019, the Philippine Drug Enforcement Agency Regional Office-National Capital Region Quezon City (PDEA) received a report from a confidential informant that a certain alias "Totong," later on identified as Bernardino, was allegedly peddling marijuana in Barangay Palatiw, Pasig City. Consequently, a buy-bust operation was planned, wherein Intelligence Officer I Randy M. Ruiz (IO I Ruiz) was designated as the poseur buyer. As instructed by Special Investigative Officer III Esmeralda Quijano, IO I Ruiz told the confidential informant to contact Bernardino. While the confidential informant was talking to Bernardino, IO I Ruiz asked for the phone and inquired with Bernardino if

⁵ *Id.*

⁶ *Id.* at 11.

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the latter can provide him with one kilo of marijuana. IO I Ruiz asked him how much it will cost, to which Bernardino replied that it would cost PHP 25,000.00. Bernardino then told IO I Ruiz to meet him in his house in Villa Sanchez, Bagong Taon, Barangay Palatiw, Pasig City at 4:00 p.m. of June 4, 2019.⁷

At around 11:20 p.m. of June 4, 2019, a final briefing was conducted with Special Investigator II Sammy P. Concepcion (SI II Concepcion) as the primary back up and the rest of the buy-bust team as secondary back-ups. IO I Ruiz then prepared the marked money, a pre-operational report, a certification of coordination, an authority to operate, and the letter-request for representatives from the media, the National Prosecution Service (NPS), and a barangay elected official. The buy-bust team then proceeded to the Pasig City Police Headquarters for coordination. While in the vehicle, IO I Ruiz instructed the confidential informant to tell Bernardino that they were on their way to his house, for which the latter replied that he already had the orders and was just waiting for them to arrive.⁸

After proper coordination, the buy-bust team proceeded to the target area. Once there, the confidential informant knocked on the door while calling the name "Totong." After Bernardino opened the door, the confidential informant introduced IO I Ruiz as the buyer of marijuana. Consequently, Bernardino invited the confidential informant and IO I Ruiz inside the house and asked IO I Ruiz for the payment of the one kilo of marijuana. IO I Ruiz then showed Bernardino a brown envelope containing the marked money and told him that he wanted to see the marijuana. Bernardino went out and returned with a paper bag containing marijuana. He handed it to IO I Ruiz who inspected the same. Subsequently, IO I Ruiz handed the marked money to Bernardino, and after, IO I Ruiz called SI II Concepcion through his cellular phone, which was the pre-arranged signal that the drug sale was already consummated. SI II Concepcion and some of the team members entered the house of Bernardino and introduced themselves as PDEA agents. IO I Ruiz then frisked Bernardino and recovered from him the marked money.⁹

Immediately after, IO I Ruiz conducted the marking, inventory, and photography of the seized items at the place of arrest and in the presence of Bernardino, Barangay Kagawad Ronald Ryan Silva (Kagawad Silva), Hataw D'yaryo ng Bayan media representative Alex Mendoza (Media Representative Mendoza), and the Department of Justice representative Mark Lavine Inocencio (DOJ Representative Inocencio), who all signed the Certificates/Receipts of Inventory Seized/Confiscated Evidence for both drug and non-drug items.¹⁰

⁷ *Id.* at 12.

⁸ *Id.* at 12-13.

⁹ *Id.*

¹⁰ *Id.* at 13.

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IO I Ruiz brought the seized items to the police station for proper investigation and documentation. He then delivered the seized items to the crime laboratory, wherein the same were received by Chemist II Cherry P. Maximo (Chemist II Maximo).¹¹ Chemist II Maximo then conducted the qualitative examination of the seized items, where it yielded positive for marijuana, a dangerous drug.¹² After examination, Chemist II Maximo placed the seized items inside a big, self-sealing, transparent bag, marked the same 'PDEA-DD019-257 06/04/19' with her signature, and turned it over to the then duty evidence custodian, Majella Munasque, who placed the same into the evidence room. Upon subpoena by the RTC, Chemist II Maximo retrieved the seized items from the then duty evidence custodian, Erwin Obediente, and brought the same to the court for identification.¹³

In defense, Bernardino denied the charges against him, claiming, instead that, during that time, he was on his way home when three men blocked him and asked him if he knew someone named Mark John Villanueva. When he replied in the negative, he heard one of the men say "*Pare, siya na lang.*" He was then forced to bring the men to his house. Inside his house, one of the men drew a gun, pointed it to his forehead, and ordered him to lie down facing the floor. While he was lying down, he was handcuffed and frisked. Afterwards, the other men arrived carrying a paper bag. Consequently, the other men raised him up and sat him on a chair near the table while the contents of the paper bag were placed on top of the table. Then, Kagawad Silva arrived and signed the documents handed to him. Kagawad Silva allegedly asked him why he was apprehended, for which he answered he did not know. Moments after, someone from the media arrived and took photographs of him and the items. He was then brought to the police station, where he was asked to point to drug pushers. When he answered that he did not know any, he was brought to the police station where his drug test was taken.¹⁴

The RTC Ruling

In a Decision¹⁵ dated July 7, 2020, the RTC convicted Bernardino of the crimes charged, and accordingly, sentenced him to suffer the following penalties: (a) in *Criminal Case No. R-PSG-19-01490*, the penalty of life imprisonment, and to pay a fine in the amount of PHP 1,000,000.00 with all the accessory penalties under the law; and (b) in *Criminal Case No. R-PSG-19-01491*, the penalty of six months rehabilitation in a government center.¹⁶

In convicting Bernardino of illegal sale of dangerous drugs, the RTC held that all the elements of the aforesaid crime was established by the

¹¹ *Id.* at 13–14.

¹² RTC records, p. 34.

¹³ *Id.* at 66–67.

¹⁴ *Rollo*, p. 42.

¹⁵ *Id.* at 33–49.

¹⁶ *Id.* at 49.

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prosecution, and that the chain of custody of the seized items was proven to be unbroken.¹⁷ As to the illegal use of dangerous drugs, the RTC found that the screening and confirmatory examination conducted on Bernardino's urine gave a positive result for the presence of marijuana, a dangerous drug.¹⁸ Furthermore, the RTC did not give credence to Bernardino's defense of denial for being an intrinsically weak defense, which must be buttressed with strong evidence of non-culpability.¹⁹

Aggrieved, Bernardino appealed to the CA.

The CA Ruling

In a Decision²⁰ dated October 12, 2021, the CA affirmed *in toto* the RTC ruling. It held that the RTC properly convicted Bernardino of illegal sale of dangerous drugs since it was established that the latter was caught *in flagrante delicto* selling marijuana to IO I Ruiz during a legitimate buy-bust operation conducted by the PDEA. Consequently, it found that the prosecution was able to establish the chain of custody of the items seized from Bernardino from the moment of seizure until the same were presented to the court for identification. Furthermore, it ruled that Bernardino's conviction of illegal use of dangerous drugs was proper since both the screening and confirmatory tests conducted against him yielded positive for the presence of THC metabolites, a component of marijuana.²¹

Hence, the instant Appeal.

The Issue before the Court

The core issue in this case is whether the CA erred in convicting Bernardino of illegal sale and use of dangerous drugs.

The Court's Ruling

The Appeal is bereft of merit.

*The courts a quo properly convicted
Bernardino of Illegal Sale of
Dangerous Drugs*

¹⁷ *Id.* at 43–49.

¹⁸ *Id.* at 49.

¹⁹ *Id.*

²⁰ *Id.* at 8–30.

²¹ *Id.* at 18–29.

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Article II, Section 5 of R.A. No. 9165 punishes any person who will be caught selling illegal drugs, thus:

SECTION 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 (P500,000.00) to Ten million pesos (P10,000,000.00) 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.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) 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 controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemical trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

Consequently, in order to secure a conviction of illegal sale of dangerous drugs, the prosecution must establish the following: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.²²

²² *People v. Tamundi*, G.R. No. 255613, December 7, 2022 [Per J. Kho, Jr., Second Division].

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As correctly found by the courts *a quo*, the prosecution was able to establish all the elements of the crime charged as Bernardino was caught *in flagrante delicto* selling marijuana during a legitimate buy-bust operation conducted by the PDEA.

Notably, however, it remains essential that the identity of the confiscated drugs be established beyond reasonable doubt. To obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over 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*.²³

In this regard, case law instructs that there are four links in the chain of custody of the purported drugs confiscated from the accused, namely: **first**, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; **second**, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; **third**, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and **fourth**, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.²⁴

In this case, the Court upholds the courts *a quo*'s findings that there was compliance with Section 21 of R.A. No. 9165, as amended. Records revealed that the buy-bust operation was conducted on June 4, 2019, or after the effectivity of R.A. No. 10640. As such, it was R.A. No. 10640 that was applicable, which provides that the conduct of the inventory and photography should be witnessed by the accused, a representative from the media *or* DOJ, and an elected official. Verily, the prosecution was able to establish that after the seizure of the illegal drugs, IO I Ruiz immediately conducted the marking, inventory, and photography of the seized items at the place of the arrest in the presence of Bernardino, Kagawad Silva, media representative Mendoza, and DOJ representative Inocencio. Thereafter, IO I Ruiz brought the seized items to the police station for proper investigation and documentation. He then brought the seized items to the crime laboratory, where it was received by the on-duty chemist, Chemist II Maximo. Chemist II Maximo turned over the seized items to the evidence custodian for safekeeping, and only recovered the same from the latter upon subpoena by the court. Chemist II Maximo then brought the seized items to the RTC for identification.

²³ See *People v. Alvaro*, 823 Phil. 444, 454 (2018), citing *People v. Viterbo*, 739 Phil. 593 (2014) [Per J. Perlas-Bernabe, Second Division].

²⁴ See *People v. Que*, 824 Phil. 882, 895 (2018) [Per J. Leonen, Third Division], citing *People v. Nandi*, 639 Phil. 134, 144–145 (2010) [Per J. Mendoza, Second Division].

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Bernardino was likewise properly convicted of Illegal Use of Dangerous Drugs

Bernardino was likewise charged with illegal use of dangerous drugs. The pertinent provision of which under Article II, Section 15 of R.A. No. 9165 reads:

SECTION. 15. *Use of Dangerous Drugs.* — A person apprehended or arrested, who is found to be positive for use of any dangerous drug, after a confirmatory test, shall be imposed a penalty of a minimum of six (6) months rehabilitation in a government center for the first offense, subject to the provisions of Article VIII of this Act. If apprehended using any dangerous drug for the second time, he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00): *Provided, That this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided for under Section 11 of this Act, in which case the provisions stated therein shall apply.*

While Section 15 penalizes a person apprehended or arrested for unlawful acts listed under Article II of R.A. No. 9165 and who is found to be positive for use of any dangerous drug, a conviction presupposes the prior conduct of an initial screening test and a subsequent confirmatory test both yielding positive results for illegal drug use.²⁵ Sections 36 and 38 of R.A. No. 9165 provides:

SECTION. 36. *Authorized Drug Testing.* — Authorized drug testing shall be done by any government forensic laboratories or by any of the drug testing laboratories accredited and monitored by the DOH to safeguard the quality of test results. The DOH shall take steps in setting the price of the drug test with DOH accredited drug testing centers to further reduce the cost of such drug test. *The drug testing shall employ, among others, two (2) testing methods, the screening test which will determine the positive result as well as the type of the drug used and the confirmatory test which will confirm a positive screening test.* Drug test certificates issued by accredited drug testing centers shall be valid for a one-year period from the date of issue which may be used for other purposes.

....

SECTION. 38. *Laboratory Examination or Test on Apprehended/Arrested Offenders.* — *Subject to Section 15 of this Act, any person apprehended or arrested for violating the provisions of this Act shall be subjected to screening laboratory examination or test within*

²⁵ *People vs. Lopez*, 877 Phil. 302, 326 (2020) [Per J. Caguioa, First Division].

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twenty-four (24) hours; if the apprehending or arresting officer has reasonable ground to believe that the person apprehended or arrested, on account of physical signs or symptoms or other visible or outward manifestation, is under the influence of dangerous drugs. If found to be positive, the results of the screening laboratory examination or test shall be challenged within fifteen (15) days after receipt of the result through a confirmatory test conducted in any accredited analytical laboratory equipment with a gas chromatograph/mass spectrometry equipment or some such modern and accepted method, ***if confirmed the same shall be prima facie evidence that such person has used dangerous drugs, which is without prejudice for the prosecution for other violations of the provisions of this Act.*** *Provided*, That a positive screening laboratory test must be confirmed for it to be valid in a court of law. (Emphasis supplied)

The phrase “a person apprehended and arrested” was further explained in *Dela Cruz v. People*,²⁶ viz:

“A person apprehended or arrested” cannot literally mean any person apprehended or arrested for any crime. The phrase must be read in context and understood in consonance with R.A. 9165. ***Section 15 comprehends persons arrested or apprehended for unlawful acts listed under Article II of the law.***

Hence, a drug test can be made upon persons who are apprehended or arrested for, among others, the “importation,” “***sale, trading, administration, dispensation, delivery, distribution and transportation,***” “***manufacture***” and “possession” of dangerous drugs and/or controlled precursors and essential chemicals; possession thereof “during parties, social gatherings or meetings”; being “employees and visitors of a den, dive or resort”; “maintenance of a den, dive or resort”; “illegal chemical diversion of controlled precursors and essential chemicals”; “manufacture or delivery” or “possession” of equipment, instrument, apparatus, and other paraphernalia for dangerous drugs and/or controlled precursors and essential chemicals; possession of dangerous drugs “during parties, social gatherings or meetings”; “unnecessary” or “unlawful” prescription thereof; “cultivation or culture of plants classified as dangerous drugs or are sources thereof”; and “maintenance and keeping of original records of transactions on dangerous drugs and/or controlled precursors and essential chemicals.” To make the provision applicable to all persons arrested or apprehended for any crime not listed under Article II is tantamount to unduly expanding its meaning. Note that accused appellant here was arrested in the alleged act of extortion.²⁷ (Emphasis supplied)

Clearly from the foregoing provisions and the Court’s ruling in *Dela Cruz* that: (a) an initial drug testing and confirmatory drug testing can be made upon persons who are apprehended or arrested for violation of R.A. No. 9165; and (b) a positive result from the confirmatory drug testing shall be *prima facie* evidence of drug use under Section 15 of R.A. No. 9165, and the same is without prejudice for the prosecution for other violations of the provisions of the same Act.

²⁶ *Dela Cruz v. People*, 739 Phil. 578 (2014) [Per J. Sereno, First Division].

²⁷ *Id.* at 585–587.

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Section 25 of R.A. No. 9165 provides:

SECTION. 25. *Qualifying Aggravating Circumstances in the Commission of a Crime by an Offender Under the Influence of Dangerous Drugs.* — Notwithstanding the provisions of any law to the contrary, a positive finding for the use of dangerous drugs shall be a qualifying aggravating circumstance in the commission of a crime by an offender, and the application of the penalty provided for in the Revised Penal Code shall be applicable.

Section 25 of R.A. No. 9165 should be harmonized with Section 38 of the same Act which allowed separate prosecution for violations of Section 15 and the other provisions of the same act. The only exception is found in Section 15, Article II of R.A. No. 9165 where the law explicitly provides that Section 15 is not applicable when a person tested is also found to have in their possession such quantity of any dangerous drugs provided for under Section 11 of the same act, and in which case, the provision under the latter provision shall apply.²⁸ Thus, Section 25 of R.A. No. 9165 should be interpreted to be applicable to an accused who committed any crimes or offenses under the influence of illegal drugs other than the violation of any provisions of R.A. No. 9165, *i.e.* Illegal Sale of Dangerous Drugs. This interpretation is consistent with the court rulings in *People v. Cabiling*,²⁹ *People v. Vastine*,³⁰ *People v. Dulay*,³¹ and *People v. Taboy*,³² wherein the Court separately convicted the accused therein of Illegal Sale and Illegal Use of Dangerous Drugs under Sections 5 and 15, Article II of R.A. No. 9165.

In *Cabiling*, the Court convicted the accused therein of both illegal sale and use of dangerous drugs under Article II, Sections 5 and 15 of R.A. No. 9165, respectively, after the prosecution was able to establish all the elements of the crimes charged. In the said case, the accused was caught selling dangerous drugs after a legitimate buy-bust operation, and the urine samples taken from him after the arrest tested positive for drug use.

Similarly, in *Vastine*, the Court affirmed Vastine's conviction of both illegal sale of cocaine and use of marijuana since all the elements thereof were sufficiently established by the prosecution, and there was compliance with the chain of custody requirement under Section 21 of R.A. No. 9165.

In *Dulay*, the Court affirmed the conviction of the accused therein of illegal sale and illegal use of dangerous drugs under Article II, Sections 5 and 15 of R.A. No. 9165.³³

²⁸ See *People v. Lique*, G.R. No. 237051, November 10, 2021 [Unsigned Resolution, Second Division].

²⁹ G.R. No. 236456, November 24, 2021 [Unsigned Resolution, Second Division].

³⁰ 921 Phil. 1100 (2022) [Per J. Zalameda, First Division].

³¹ 700 Phil. 664 (2012) [Per J. Leonardo-De Castro, First Division].

³² 834 Phil. 72, (2018) [Per J. Del Castillo, First Division].

³³ *People v. Dulay*, *supra* note 31, at 674.

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In *Taboy*, the Court likewise affirmed the conviction of Taboy of illegal sale and illegal use of dangerous drugs under Article II, Sections 5 and 15 of R.A. No. 9165 as the prosecution was able to establish all the elements of the crimes charged and the apprehending officers' compliance with Section 21 of R.A. No. 9165.³⁴

In this case, the courts *a quo* properly convicted Bernardino of illegal use of dangerous drugs as it was established that: (a) he was arrested for illegal sale of dangerous drugs; (b) he was subjected to a drug test; and (c) both the screening and confirmatory tests conducted against him yielded positive for the presence of THC metabolites, a component of marijuana.

Given the foregoing, the Court finds no reason to deviate from the findings of the RTC, as affirmed by the CA, as there is no indication that it overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case. In fact, the RTC was in the best position to assess and determine the credibility of the witnesses presented by both parties, and hence, due deference should be accorded to the same.³⁵ Hence, Bernardino's conviction of the crimes charged must be sustained.

The Penalty

In light of the affirmance of Bernardino's conviction, the Court now proceeds with the determination of his imposable penalty.

Suffice it to say that Bernardino was properly sentenced to suffer the following penalties: (a) in **Criminal Case No. R-PSG-19-01490** for illegal sale of dangerous drugs, the penalty of life imprisonment, and to pay a fine in the amount of PHP 1,000,000.00 with all the accessory penalties under the law; and (b) in **Criminal Case No. R-PSG-19-01491**, the penalty of six months rehabilitation in a government center.³⁶

ACCORDINGLY, the instant Appeal is **DISMISSED**. The Decision dated October 12, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 14657 is **AFFIRMED**. Accused-appellant Edgardo Bernardino y Tamayo a.k.a. "Totong" is found guilty beyond reasonable doubt of illegal sale and illegal use of dangerous drugs, respectively defined under Article II, Sections 5 and 15 of Republic Act No. 9165. Accordingly, he is sentenced to suffer the following penalties: (a) in **Criminal Case No. R-PSG-19-01490-CR** for illegal sale of dangerous drugs, the penalty of life imprisonment, and to pay a

³⁴ *People v. Taboy*, *supra* note 32, at 87.

³⁵ *See Peralta v. People*, 817 Phil. 554, 563 (2017) [Per J. Perlas-Bernabe, Second Division].

³⁶ *See* Republic Act No. 9165 (2002), art. II, sec. 5 and sec. 15, Comprehensive Dangerous Drugs Act of 2002.

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fine in the amount of PHP 1,000,000.00 with all the accessory penalties under the law; and (b) in **Criminal Case No. R-PSG-19-01491**, the penalty of rehabilitation for six months in a government center.

SO ORDERED.


ANTONIO T. KHO, JR.

Associate Justice

WE CONCUR:

Securing opinion

MARVIC M.V.F. LEONEN

Senior Associate Justice
Division Chairperson


AMY C. LAZARO-JAVIER

Associate Justice


MARIO V. LOPEZ

Associate Justice

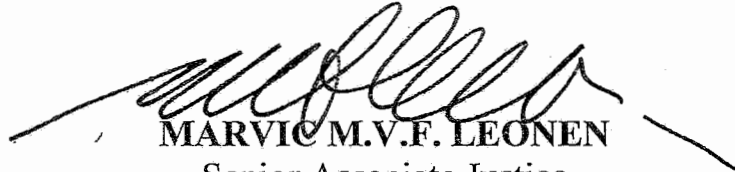

JHOSEP Y. LOPEZ

Associate Justice

Kho

ATTESTATION

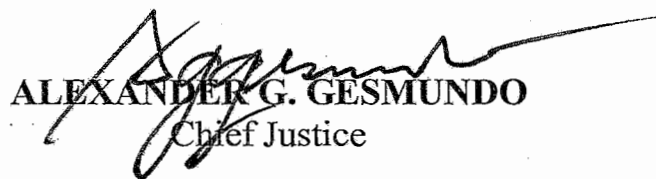
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII 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

