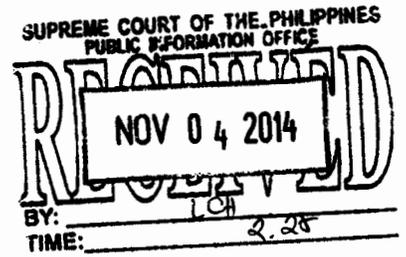




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 8, 2014** which reads as follows:*

**G.R. No. 200791 – PEOPLE OF THE PHILIPPINES vs. RICHARD ROQUE Y MACASPAC, CHRISTOPHER ORAZON Y DEUNA (accused); RICHARD ROQUE Y MACASPAC (accused-appellant).**

This is an appeal from conviction for violation of the Dangerous Drugs Act (Rep. Act No. 9165)

The pertinent facts of the case are as follows:

Around 10:00 o'clock in the morning of July 23, 2002, a concerned citizen went to the Drug Enforcement Unit (DEU) of the Mandaluyong Police Station, and informed the Chief of Police, Police Chief Inspector Lizardo Lumagbas (Lumagbas), that appellant Richard Roque y Macaspac was openly dealing drugs at No. 485 Saniboy St., Barangay Hulo, Mandaluyong City.

On account of the report, Lumagbas immediately called a conference for the conduct of a buy-bust operation, designating PO2 Braulio Peregrino as the *poseur* buyer and PO1 Marcelino Boyles, PO3 Victor Santos and PO2 Allan Drilon as the arresting officers. The buy-bust team was given a One Hundred Peso bill (Php 100.00), which was marked by PO2 Peregrino with a dot on the picture of Manuel A. Roxas. PO2 Peregrino likewise recorded its serial number, DS462839, in the police blotter. After which the buy-bust team, together with the informant, proceeded to the target area.

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An hour later, the team arrived at the address indicated by the informant and, with the latter's help, immediately spotted appellant. PO2 Peregrino approached appellant, who was in the company of a man later identified as his co-accused Christopher Orazon y Deuna (Orazon). PO1 Boyles stood ten (10) meters away. PO2 Peregrino then asked appellant, "*pwede bang umiskor kahit mamiso lang?*" Appellant did not answer but when PO2 Peregrino gave him the Php100.00 bill, appellant took out a plastic sachet, looked left and right and gave it to PO2 Peregrino. With the consummation of the sale, PO2 Peregrino executed the pre-arranged signal by scratching his head. He introduced himself as a police officer, informed appellant of his rights and arrested him.

Orazon on the other hand, took flight but was pursued and apprehended by PO1 Boyles. A sachet containing suspected *shabu* was likewise recovered in his possession.

x x x x

When examined, the sachet were found to each contain 0.05 gram of *methamphetamine hydrochloride* or *shabu*, a dangerous drug.

Appellant denied the accusation against him, alleging that he was a victim of frame-up and that the alleged illegal drugs were planted evidence. Appellant and Orazon both testified that on July 23, 2002, Orazon went to the house of appellant for a haircut. Appellant allegedly earned his living as a barber. They stayed outside of the house, along the sidewalk where there were people playing *cara y cruz*. Suddenly, while appellant was cutting Orazon's hair, the policemen came and ran after those playing *cara y cruz*. Appellant and Orazon also ran away as the police officers allegedly poked their guns at appellant and Orazon. None of those playing *cara y cruz* were arrested but appellant and Orazon were apprehended for no apparent reason and were brought to the police station for questioning.

#### RTC RULING:

The RTC found Orazon guilty of violation of Sec. 11, Art. II of Rep. Act. No. 9165, while Roque was sentenced for violation of Sec. 5, Art. II of Rep. Act. No. 9165.

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The accused' possession of such regulated drugs constitute *prima facie* evidence of knowledge of *animus possidendi* sufficient to sustain a conviction in the absence of a satisfactory explanation of such possession. Hence, the burden of evidence is shifted to the accused to explain the absence of knowledge of *animus possidendi*. Both accused Orazon and Roque's voluntary and conscious possession of the regulated drugs existed considering their failure to satisfactorily explain their possession of such, and the chemistry report No. D-1386-02E shows that the plastic sachet containing white crystalline substance yielded positive result for *methamphetamine hydrochloride*, otherwise known as *shabu*, a regulated drug.<sup>2</sup>

Orazon did not appeal but Roque elevated the case to the CA.

#### CA RULING:

The CA affirmed the decision of the RTC.

In every prosecution for illegal sale of dangerous drugs, what is material and indispensable is the submission of proof that the sale of illicit drug took place between the *poseur*-buyer and the seller thereof, and further, the presentation of the drug as evidence in court. In this case, the prosecution has satisfactorily proven all the elements necessary for a charge of illegal sale of *shabu* against the appellant, viz: (1) identity of the buyer and the peddler, the object, and consideration, and (2) the delivery of the thing sold and the payment therefor. *Poseur*-buyer PO2 Peregrino, sufficiently testified that appellant handed to him the sachet of *shabu* in exchange for One Hundred Pesos (Php100.00) and that the buy-bust money was recovered in appellant's possession.<sup>3</sup>

#### ISSUE BEFORE THE COURT:

Whether or not the CA erred in affirming the RTC decision finding accused-appellant Richard Roque guilty of the illegal sale of prohibited drug.

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2 CA rollo, p. 59.

3 Rollo, pp. 13-14.

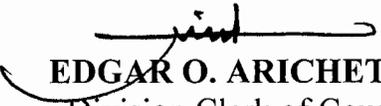
**THE COURT'S RULING**

After careful and judicious perusal of the records, the Court finds no cogent reason to modify, much less depart from the findings and rulings of the CA. The Court, thus, resolves to **DISMISS** the appeal.

**WHEREFORE**, the Court **ADOPTS** the findings of fact and conclusions of law in the August 15, 2011 decision<sup>4</sup> of the CA in CA-G.R. CR-HC No. 02681 and **AFFIRMS** said decision finding accused-appellant Richard Roque y Macaspac **GUILTY** beyond reasonable doubt under Section 5, Article II of Republic Act. No. 9165 of the sale of zero point zero five (0.05) gram of *methamphetamine hydrochloride* or *shabu*, a dangerous drug and sentencing him to life imprisonment and to pay a fine of Five Hundred Thousand Pesos (Php500,000.00).

**SO ORDERED.**"

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court  
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The Solicitor General (x)  
Makati City

Hon. Presiding Judge  
Regional Trial Court, Br. 209  
1550 Mandaluyong City  
(Crim. Case Nos. MCO2-5788  
& 5789)

Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 02681)

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<sup>4</sup> Penned by CA Associate Justice Ricardo R. Rosario, with Associate Justices Hakim S. Abdulwahid and Fernanda Lampas-Peralta, concurring, *rollo* pp. 2-15.

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