

CERTIFIED TRUE COPY

*Wilfredo V. Lapitan*  
WILFREDO V. LAPITAN  
Division Clerk of Court  
Third Division



Republic of the Philippines  
Supreme Court  
Manila

JUL 31 2017

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 219590

Present:

- versus -

VELASCO, JR., J.,  
*Chairperson,*  
BERSAMIN,  
\*MENDOZA  
REYES, and  
TIJAM, JJ.

MARCIAL M. PARDILLO,  
Accused-Appellant.

Promulgated:

June 7, 2017

*Wilfredo V. Lapitan*

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DECISION

TIJAM, J.:

Accused-appellant Marcial M. Pardillo appeals the Decision<sup>1</sup> dated July 31, 2013 promulgated by the Court of Appeals (CA) in CA-G.R. CR No. 01689, which affirmed the judgment of conviction for violation of Section 11, Article II, Republic Act (RA) No. 9165<sup>2</sup> rendered against him in a Decision<sup>3</sup> dated April 16, 2010 by the Regional Trial Court (RTC), 7<sup>th</sup> Judicial Region, Branch 13, Cebu City in Criminal Case No. CBU-79099.

The Facts

On February 2, 2007, at around 3 o'clock in the afternoon, SPO1 Metodio Aparis (SPO1 Aparis), together with PO3 Macarinas and PO2

<sup>1</sup> Designated as an additional member as per Raffle dated March 15, 2017.

<sup>2</sup> CA rollo at 56-70, penned by Associate Justice Gabriel Ingles and concurred in by Associate Justices Pampio A. Abarintos and Marilyn Lagura-Yap.

<sup>3</sup> "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002."

<sup>4</sup> Promulgated by Judge Meinrato P. Paredes; CA rollo at 30-31

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Tremaine Sotto (PO2 Sotto), conducted a roving patrol at Garfield Street, Barangay Suba, Cebu City. While doing the same, SPO1 Aparis noticed the accused-appellant, who was holding two pieces of white transparent sachets in his right hand, in an alley. SPO1 Aparis suspected that the sachets are dangerous drugs; and so, he introduced himself as a police officer and inquired what the accused-appellant was holding. Accused-appellant replied that somebody just asked him to buy shabu.

The police officers brought the accused-appellant to the police station. While on their way to the said station, SPO1 Aparis took custody of the seized articles. Upon reaching the station, SPO1 Aparis placed the markings "MMP-1" and "MMP-2" on the two plastic sachets for laboratory examination. The seized items were brought to the PNP Crime Laboratory. In a Chemistry Report, the items were found positive for methamphetamine hydrochloride or shabu.

An Information was filed against the accused-appellant for violation of Section 11, Article II, RA 9165, which reads:

That on or about the 2<sup>nd</sup> day of February 2007 at about 3:00 o'clock in the afternoon, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, without authority of law, with deliberate intent, did then and there have in his possession, use and control, two (2) heat sealed plastic packets of white crystalline substance having a total weight of 0.07 gram locally known as "Shabu", containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>4</sup>

For his part, accused-appellant narrated that he was just standing outside his house when a man suddenly approached him and held up his left hand. Subsequently, he was frisked. Said man introduced himself as a police officer while simultaneously showing his firearm tucked in his right side. Soon after, the police officer's companions arrived and invited him to the police station. At the police station, he was asked if he knew a certain Edwin who was selling shabu, to which he replied in the negative.

### **The RTC Ruling**

In its Decision<sup>5</sup> dated April 16, 2010, the RTC found the accused-appellant guilty beyond reasonable doubt of violation of Section 11, Article II of RA 9165 and sentenced him to imprisonment of 12 years and one day to 13 years. He was also ordered to pay a fine in the amount of Three Hundred Thousand Pesos (PhP 300,000). The *fallo* thereof reads:

WHEREFORE, Judgment is hereby rendered finding accused MARCIAL PARDILLO guilty beyond reasonable doubt of violating

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<sup>4</sup> Records, p.1.

<sup>5</sup> Supra note 3.

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Section 11, Article II, RA 9165 and sentences him to imprisonment of twelve years and one day to fifteen years and a fine of P300,000.00.

The two heat sealed plastic packets of white crystalline substance marked Exhibit "A" known as shabu, a dangerous drug is hereby ordered confiscated in favor of the government and destroyed pursuant to law.

SO ORDERED.<sup>6</sup>

### **The CA Ruling**

On appeal, the CA rendered a Decision<sup>7</sup> dated July 31, 2013, affirming the RTC's decision in its entirety. The dispositive portion thereof reads:

WHEREFORE, the appeal is DENIED. The Decision dated April 16, 2010, of the Regional Trial Court, 7<sup>th</sup> Judicial Region, Branch 13, Cebu City in Civil Case No. CBU-79099 is AFFIRMED. No pronouncement as to costs.

SO ORDERED.<sup>8</sup>

Accused-appellant then appealed to this Court for review.<sup>9</sup>

### **The Issues**

The issues for resolution are: (1) whether or not there was a valid warrantless arrest and subsequent seizure of accused-appellant's effects; and (2) whether or not the chain of custody was broken.

### **The Court's Ruling**

It is well-settled that no arrest, search and seizure can be made without a valid warrant issued by a competent judicial authority.<sup>10</sup> Any evidence obtained in violation of this provision is inadmissible for any purpose in any proceeding. However, the rule against warrantless searches and seizures admits of exceptions.<sup>11</sup>

One of which is warrantless arrest, which justifies a subsequent search. Section 5(a), Rule 113 provides that:

**Section 5. Arrest without warrant; when lawful.**-- A peace officer or a private person may, without a warrant, arrest a person:

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<sup>6</sup> *Rollo*, p. 31.

<sup>7</sup> *Supra* note 1.

<sup>8</sup> *Rollo*, p. 70.

<sup>9</sup> *Id.* at 19.

<sup>10</sup> *People v. Breis*, G.R. No. 205823, August 17, 2015.

<sup>11</sup> *Id.*

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; xxx

For the exception in Section 5(a) to operate, this Court has ruled that two elements must be present: (1) the person to be arrested must execute an overt act indicating that he has just committed, actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.<sup>12</sup>

The factual circumstances surrounding the arrest of the accused-appellant and the subsequent seizure of the illegal drugs lead Us to conclude that the exception applies, as: (1) SPO1 Aparis, PO3 Macarinas and PO2 Sotto were conducting a roving patrol on Garfield St. because of the rampant drug-trafficking in said area<sup>13</sup>; (2) SPO1 Aparis saw the accused-appellant holding transparent sachets, containing a white crystalline substance; (3) SPO1 Aparis identified himself as a police officer and inquired about the substance which accused-appellant was holding; and (4) upon SPO1 Aparis' inquiry, accused-appellant replied that somebody just asked him to buy what he was holding<sup>14</sup>.

Accused-appellant's act of holding sachets of white crystalline substance, in an area where drug-trafficking is prevalent, was seen by SPO1 Aparis' naked eye as it was plainly exposed to the latter's view. Also, it is to be noted that he tried to exculpate himself from the liability when he was confronted by a police officer. Thus, accused-appellant's argument that he was just merely walking, and not committing a crime when he was arrested by SPO1 Aparis, is flimsy and unlikely.

Coming to the second issue, We hold that the chain of custody was unbroken.

Although ideally the prosecution should offer a perfect chain of custody in the handling of evidence, substantial compliance with the legal requirement on the handling of the seized item is sufficient. This Court has consistently ruled that even if the arresting officers failed to strictly comply with the requirement under Section 21 of RA 9165, such procedural lapse is not fatal and will not render the items inadmissible in evidence.<sup>15</sup>

As the CA held, SPO1 Aparis testified in a clear and categorical manner regarding the seizure, custody, and handling of the two heat-sealed plastic sachets containing shabu.<sup>16</sup> To recall, SPO1 Aparis marked the items with "MMP1" and "MMP2" upon their arrival at the police station. SPO1 Aparis then prepared a request for laboratory examination. He, together with

<sup>12</sup> *Miclat, Jr. v. People*, G.R. No. 176077, August 31, 2011.

<sup>13</sup> TSN, February 23, 2010, p. 13.

<sup>14</sup> *Id.* at 8.

<sup>15</sup> *People v. Ando*, G.R. No. 212632, August 24, 2016.

<sup>16</sup> CA Decision, *Rollo*, p. 65.

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PO3 Macarinas, brought the items to the crime laboratory for testing. Records show that the seized items, marked as "MMP1" and "MMP2", were received by PO2 Abesia from PO3 Macarinas in the crime laboratory. Said items were then tested by Foreign Chemist Mutchit G. Salinas (Foreign Chemist Salinas). In a Chemistry Report issued by Foreign Chemist Salinas, the seized items were identified by their markings and tested positive for methamphetamine hydrochloride.

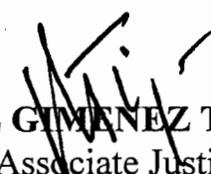
Jurisprudence is replete with cases indicating that while the chain of custody should ideally be perfect, in reality, it is not, as it is almost always, impossible to obtain an unbroken chain. The most important factor is the preservation of the integrity and the evidentiary value of the seized items as they will be used to determine the guilt or innocence of the accused.<sup>17</sup>

It cannot be overemphasized that in cases involving violations of the Dangerous Drugs Act of 2002, as amended, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.<sup>18</sup>

Time and again, We reiterate that factual findings of the trial court, when adopted and confirmed by the CA, as in this case, are binding and conclusive upon this Court, save for certain exceptions, which are not existent in this case.<sup>19</sup>

**WHEREFORE**, the instant appeal is **DISMISSED**. Accordingly, the Decision dated July 31, 2013 promulgated by the Court of Appeals in CA-G.R. CR No. 01689, affirming the judgment of conviction for violation of Section 11, Article II, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is hereby **AFFIRMED in toto**.

**SO ORDERED.**

  
**NOEL GIMENEZ TIJAM**  
Associate Justice

<sup>17</sup> *People v. Lafaran*, G.R. No. 208015, October 14, 2015.

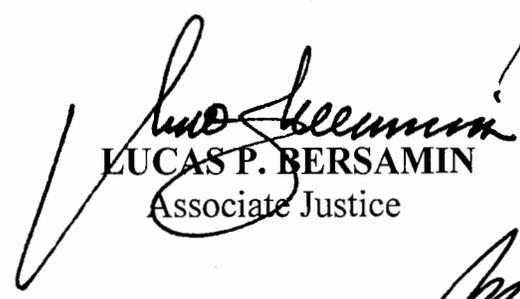
<sup>18</sup> *People v. Alcala*, G.R. No. 201725, July 18, 2014.

<sup>19</sup> *People v. dela Pena and Delima*, G.R. No. 207635, February 18, 2015.

**WE CONCUR:**



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson



**LUCAS P. BERSAMIN**  
Associate Justice

(On Leave)  
**JOSE CATRAL MENDOZA**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice

**ATTESTATION**

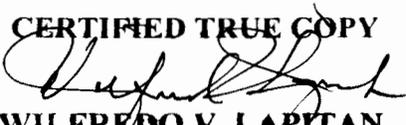
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third 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.

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**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division



**MARIA LOURDES P. A. SERENO**  
Chief Justice

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