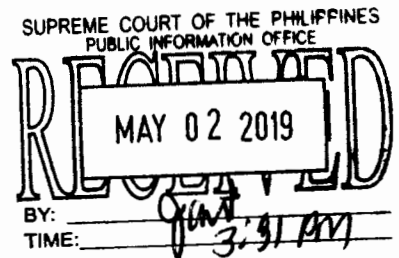




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION



PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 222187

Present:

- versus -

BERSAMIN, C.J.,
PERALTA,*
DEL CASTILLO,
GESMUNDO, and
CARANDANG, JJ.

SIEGFREDO OBIAS, JR., y ARROYO
a.k.a. "Boboy",
Accused-Appellant.

Promulgated:
MAR 25 2019

X ----- 

DECISION

DEL CASTILLO, J.:

This is an appeal from the March 9, 2015 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR No. 34933 affirming the September 26, 2011 Judgment² of the Regional Trial Court (RTC) of Naga City, Branch 27, in Criminal Case Nos. RTC 2008-0341 and RTC 2008-0342, finding Siegfredo Obias, Jr. y Arroyo a.k.a. "Boboy" (appellant) guilty beyond reasonable doubt of violation of Sections 11 (Illegal Possession of Dangerous Drugs) and 12 (Illegal Possession of Drug Paraphernalia), Article II of Republic Act (RA) No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The prosecution evidence as synthesized by the CA is, as follows –

From the prosecution's evidence, it is gathered that elements of the National Bureau of Investigation (NBI) Legaspi District Office had conducted surveillance and test buy operations on a certain Boboy Obias who was dealing with *shabu*, a prohibited drug, at his rest house and cock

* Designated additional member per Raffle dated October 3, 2018.

¹ *Rollo*, pp. 2-13; penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Ramon M. Bato, Jr. and Maria Elisa Sempio Diy.

² Records, Crim. Case No. RTC 2008-0342, pp. 634-648; penned by Judge Leo L. Intia.


farm situated at Diamond Street, Villa Grande Homes Subdivision, Concepcion Grande, Naga City. Pursuant thereto, the NBI applied for and secured Search Warrant Nos. 2008-021 and 2008-022 dated 11 September 2008 from Executive Judge Jaime E. Contreras to search the above-described premises and seize any *shabu* as well as drug paraphernalia such as aluminum foils, water pipes, lighters with fluid, burner with acetone and tanita weighing scale that may be found thereat.

At around 9:30 P.M. of 13 September 2008, with assistance from the Philippine National Police (PNP), and the Philippine Drug Enforcement Agency (PDEA), NBI agents led by Special Investigator III Felipe Jessie Jimenez, Jr. proceeded to the said address to serve the two (2) Search Warrants against Boboy Obias, the accused-appellant. The team invited Barangay Chairman Elmer Baldemoro and some barangay tanods of Concepcion Grande, media reporters from ABS-CBN Naga City, GMA 7 Network and Weekly Digest, and Assistant City Prosecutors Joveliza P. Soriano and Cyril Manzano. The team first secured the perimeter area and compound subject of the search warrants and thereafter served the same on accused-appellant.

All persons inside the premises were gathered in the receiving area of the rest house, while the search party (consisting of Special Investigator III Felipe Jessie S. Jimenez, Jr., Barangay Chairman [Baldemoro], PDEA agent Christopher Viaña, media representatives, ACP Soriano, and other NBI agents) brought along accused-appellant during the conduct of the search. In the course of the search, they found several plastic sachets of white crystalline substance as well as assorted drug paraphernalia in certain portions of the subject premises, *viz.*: inside a bedroom in the elevated portion, inside a makeshift bedroom located under the house ("sirong"), inside the kitchen, and several particles of white crystalline substance on the grass near the cock shelter. The search was videotaped and photographed by Special Investigator III Edwin E. Romano as well as by the media personnel. Sometime later, after the light switch was located, another search was conducted in the kitchen area where they found hidden under a stove a cigarette pack colored green and the contents thereof were later marked as 'MBL-ITEM A-30' and series.

Thereafter, the seized items were photographed, sealed in plastic, and then marked by Special Investigator IV Manuel Marlo B. Lanoza with his initials 'MBL' in the presence of accused-appellant and other members of the search party. Special Investigator III Rowan Victor M. Estrellano prepared the Inventory Sheets of the seized items which were signed by Barangay Chairman Baldemoro, the three (3) media representatives and by ACP Soriano as representative of the Department of Justice. However, accused-appellant refused to sign the said inventory sheets; neither did he acknowledge receipt of a copy of the search warrants against him.

The NBI submitted a return to the issuing court, presenting accused-appellant and the seized items from his rest house and cock farm. The items were then withdrawn for the purpose of chemical examination at the crime laboratory. Upon receipt of the specimens at 10:00 A.M. of 14 September 2008, Forensic Chemist P/Insp. Edsel Villalobos of the PNP Camarines Sur Provincial Crime Laboratory Office examined the submitted specimens and then issued Chemistry Report D-44-2008



certifying that the white crystalline substances proved positive for the dangerous drug methamphetamine hydrochloride or *shabu*.³

Thus, in two Informations filed before the RTC of Naga City, appellant was separately charged with violation of Sections 11 and 12, Article II of RA 9165 by committing the following acts:

Criminal Case No. RTC 2008-0341

x x x x

That on or about September 13, 2008, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law did, then and there, wilfully, unlawfully and criminally have in his possession, custody and control the following instruments or paraphernalia, to wit:

- 1) One (1) pc. Leather case with Two Thousand (₱2,000.00) pesos marked as MBL ITEM A-3;
- 2) One (1) sachet with two (2) canister and box of cigarette mini-filter MBL ITEM A-4;
- 3) One (1) roll Aluminum Foil marked as MBL ITEM A-5;
- 4) One (1) Plastic sachet with 'Shabu tooter' and black pen case [marked as] MBL ITEM A-6;
- 5) One (1) plastic sachet with scissors and one (1) pc. Lighter marked as MBL ITEM A-7;
- 6) One (1) roll 'Shurtape' Aluminum Foil Wrap marked as MBL ITEM A-9;
- 7) One (1) plastic casing light green with 'shabu tooter' and several pieces of batteries pen type marked as MBL ITEM A-10;
- 8) One (1) plastic sachet with eleven pieces of .45 caliber bullets reload type with several rubber bands marked as MBL ITEM A-11;
- 9) One (1) white envelope marked MBL ITEM A-12;
- 10) One (1) piece TANETA M-1479V portable weighing scale marked MBL ITEM A-13;
- 11) One (1) roll aluminum foil marked MBL ITEM A-14;
- [12) One (1) Plastic sachet of suspected "Shabu" ([Methamphetamine] Hydrochloride) marked as MBL ITEM A-15;]

³ Rollo, pp. 6-8.

- [13] One (1) Plastic sachet of suspected “Shabu” ([Methamphetamine] Hydrochloride) marked as MBL ITEM A-16;
- [14] One (1) Plastic Sachet of suspected “Shabu” ([Methamphetamine] Hydrochloride) marked as MBL ITEM A-17;
- [15] One (1) black plastic case with shabu tooter and used aluminum foil marked as MBL ITEM A-18;
- [16] One (1) sachet with plastic lighter;
- [17] Three (3) pieces lighters marked as MBL ITEM A-22;
- [18] One (1) orange plastic bag with several pieces of used aluminum foils with suspected traces of ‘Shabu’ ([Methamphetamine] Hydrochloride) marked as RVME-1;
- [19] Eighteen (18) pieces of lighters (shabu paraphernalia) marked as MBL-ITEM A-23;
- [20] One (1) plastic bag pink with used aluminum foils with suspected traces of ‘Shabu’ ([Methamphetamine] Hydrochloride) marked as MBL ITEM A-24;
- [21] One (1) plastic sachet with white lighter and suspected ‘Marijuana’ marked as MBL ITEM A-25;
- [22] One (1) bag of small plastic sachets marked as MBL ITEM A-26;
- [23] One (1) plastic bag white containing three (3) pieces of improvised paper pipes, two (2) burner [sic], Two (2) lighters, one (1) empty vial, one (1) piece glass tooter, small sachet with suspected “Shabu” ([Methamphetamine] Hydrochloride), scissors, one (1) [yellow] lighter, used aluminum foils marked as MBL ITEM A-27;
- [24] [One] (1) green plastic bag with several used aluminum foils, one (1) roll aluminum foil, several empty plastic sachets marked as MBL ITEM A-28;
- [25] One (1) plastic sachet with paper tooter and used aluminum foils marked as MBL ITEM A-29;
- [26] One (1) Plastic sachet of suspected “Shabu” ([Methamphetamine] Hydrochloride) marked as MBL ITEM A-30; and

which are intended for consuming methamphetamine hydrochloride, a dangerous drug, in violation of the above-cited law.

ACTS CONTRARY TO LAW.⁴



⁴ Records, Crim. Case No. RTC 2008-0341, pp. 2-3.

Criminal Case No. RTC 2008-0342

X X X X

That on or about September 13, 2008, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did, then and there, wilfully, unlawfully and criminally have in his possession, custody and control seven (7) pcs. of Heat sealed transparent plastic sachet containing white crystalline substance found to be Methamphetamine Hydrochloride popularly known as *shabu*, with the following respective markings and weights: 'MBL ITEM A' – 0.23 grams, 'MBL ITEM A-1' – 0.43 grams, 'MBL ITEM A-15' – 0.52 grams, 'MBL ITEM A-16' – 0.82 grams, 'MBL ITEM A-17' – 0.02 grams, 'MBL ITEM A-30-A-6-1' – 4.58 grams, and 'MBL ITEM A-20' – 0.04 grams (A-7-1) & 0.05 grams (A-7-2), with a total weight of 6.69 grams,⁵ which is a dangerous drug, in violation of the above-cited law.

ACTS CONTRARY TO LAW.⁶

Appellant pleaded not guilty when arraigned. He vehemently denied the accusations against him claiming that the *shabu* and drug paraphernalia were found inside the rooms which were occupied by his two employees, Boyet and Tabor Alejandria, who were cock breeders/trainers. He averred that he just arrived at the rest house when the search party suddenly entered the compound and fired their guns. He disputed that *shabu* was found inside the kitchen since he and his companions were herded at the receiving area of the house during the search.⁷

Ruling of the Regional Trial Court

The RTC, in its Judgment of September 26, 2011, convicted the appellant of Illegal Possession of Dangerous Drugs and Illegal Possession of Drug Paraphernalia, viz.:

WHEREFORE, considering that the prosecution successfully proved the guilt of the accused in these two cases beyond reasonable doubt, the accused is hereby CONVICTED, and sentenced to:

- 1) In Crim. Case No. RTC 2008-0342, for Violation of Sec [2], Art. II, R.A. 9165 (Illegal Possession of Dangerous Drugs): suffer imprisonment for Twenty Years (20) and One (1) Day as minimum to Thirty Years (30) as maximum, and to pay fine in the amount of Pesos: Four Hundred Thousand (P400,000.00).

⁵ Total weight after weighing done in open court is 5.921 grams; Minutes of Proceedings on October 24, 2008.

⁶ Records, Crim. Case No. RTC 2008-0342, p. 1.

⁷ See CA Decision, *rollo*, p. 8.

- 2) In Crim. Case No. RTC 2008-0341, for Violation of Sec. 12, Art. II, of R.A. 9165 (Illegal Possession of Drug Paraphernalia): suffer imprisonment for Six Months and One Day as minimum to Two Years as maximum, in accordance with the Indeterminate Sentence Law and pay fine in the amount of Pesos: Ten Thousand (₱10,000.00).

The subject dangerous drugs and paraphernalia are hereby confiscated and forfeited in favor of the government to be dealt with in accordance with law. The Philippine Drug Enforcement Agency/National Bureau of Investigation are directed to take the necessary steps for the disposal of these items, in accordance with law.

SO ORDERED.⁸

Appellant appealed his conviction to the CA.

Ruling of the Court of Appeals

The CA affirmed the RTC's ruling in its March 9, 2015 Decision.

The CA ruled that the conduct of the search was made in accordance with the procedure provided in Section 8 of Rule 126 of the Rules of Court. All the prosecution witnesses attested that appellant personally witnessed the search. It held that being the owner of the cock farm and the rest house, appellant clearly had full control and dominion over the place where the seized items were recovered.

The CA further added that the NBI had adopted lawful means and methods in the implementation of the search warrants and there was faithful observance of the chain of custody requirement under RA 9165.

Ruling of the Court

The Court finds no merit in the appeal.

It is well settled that no arrest, search and seizure can be made without a valid warrant issued by a competent judicial authority. Enshrined in our fundamental law is the rule that "[t]he right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to

⁸ Records, Crim. Case No. RTC 2008-0342, pp. 647-648.

be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.”⁹ As a safeguard from unreasonable searches and seizures, Section 3(2), Article III of the Constitution provides that “any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.” Thus, the Constitution does not prohibit all searches and seizures but only those which are “unreasonable”.¹⁰

However, it must be emphasized that a search warrant validly and lawfully issued by a competent authority does not provide unbridled freedom to the peace officer in the manner of implementing the same. Section 8, Rule 126 of the Rules of Court cautions that:

Section. 8. Search of house, room or any other premises to be made in presence of two witnesses – No search of a house, room or any other premises shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality.

Thus, to be reasonable and valid, the search must be witnessed primarily by the lawful occupant of the place or any member of his family. It is only in their absence, that two witnesses of sufficient age and discretion and who are residents of the place searched, may be witnesses to the search. The order of preference cannot be disregarded, interchanged or intercalated.

In his final bid for reversal of his conviction, appellant contends that the search was illegally and irregularly conducted and violative of his constitutional rights. Appellant argues that the members of the raiding team were freely roaming around the house and the surrounding yard, unaccompanied by any of the required witnesses, in violation of the spirit and letter of the law, as enunciated in *Quintero v. National Bureau of Investigation*.¹¹ Moreover, he asserts that the search was conducted without his presence since he was forced to stay inside the receiving area.

Appellant’s arguments fail to persuade.

Indeed, some members of the raiding team were roaming around the house and its surroundings. However, appellant failed to present any evidence that, in so doing, they were searching for incriminating evidence. The evidence showed that they were patrolling the area in order to secure the

⁹ CONSTITUTION, Article III, Section 2.

¹⁰ *Pollo v. Chairperson Constantino-David*, 675 Phil. 225, 248 (2011).

¹¹ 245 Phil. 414 (1988).

same against possible escape of the persons earlier rounded up. It must be noted that the actual search did not commence until after the arrival of *Barangay* Captain Baldemoro, the media representatives and Assistant City Prosecutor Joveliza P. Soriano.

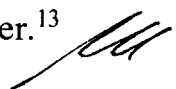
That said, appellant's averment that the search was not made in his presence has no basis; besides, it cannot prevail and overturn the positive, straightforward and consistent testimonies of the prosecution witnesses that the search was done in the presence of the appellant himself. In fact, appellant himself admitted that he accompanied the search team throughout the conduct of the search. As aptly observed by the CA:

x x x All the prosecution witnesses have consistently attested that accused-appellant personally witnessed the search considering that he was brought along by the search party as they conducted the search of the rest house and the cock farm. This is, in fact, confirmed implicitly by accused-appellant himself who testified that he 'was forced' to go with the team. More revealing is the fact that his personal presence was proven by the photographs and video footages taken during the search.¹²

Next, appellant disclaims ownership of the place searched. He alleged that the seized illegal items were found not in his actual possession but inside the bedroom of the rest house occupied by Boyet and Tabor Alejandria.

This contention is untenable, self-serving and unsubstantiated.

It remains unrefuted that, at the time of the search, appellant was the owner and possessor of the rest house based on established facts and evidence. As owner of the cock farm and the rest house, appellant clearly had full control and dominion over all the rooms located therein, including the bedroom where the thing seized were located. "Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate possession or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it [was] found. Exclusive possession or control is not necessary. The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located is shared with another."¹³



¹² *Rollo*, pp. 9-10.

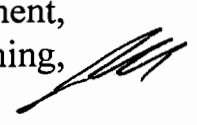
¹³ *People v. De la Trinidad*, 742 Phil. 347, 357-358 (2014).

“The finding of illicit drugs and paraphernalia in a house or building owned or occupied by a particular person raises the presumption of knowledge and possession thereof which, standing alone, is sufficient to convict.”¹⁴ In the present case, appellant failed to rebut by sufficient evidence that he did not in fact exercise power and control over the place searched and the items seized and that he did not intend to do so. Appellant also failed to adduce evidence that he was authorized by law to possess the same.

Appellant did not make much of an issue the post custody of the seized illegal drugs and paraphernalia, particularly any deviation from the directive outlined in Section 21(a), Article II of the Implementing Rules and Regulations of RA 9165. In fact, the admissibility of the seized items under this section was not contested to by him during trial. This is as it should be since the Court, like the CA, is convinced that the integrity and evidentiary value of the seized items had been preserved under the chain of custody rule. The mandatory requirement of the presence of representatives from the media and the Department of Justice (DOJ) and any elected public official during the physical inventory and photography was complied with as evidenced by their signatures on the Inventory of Seized Property and the video footages taken during the inventory.

The inconsistencies alluded to by appellant particularly the exact time when the sachet of *shabu* (item MBL-A-30) was found; whether it was the outlying premises or the kitchen that was first searched; and, whether the DOJ and media representatives were already present at the start of the search—refer only to minor details that are even irrelevant to the elements of the crimes. “[T]he rule is that, inconsistencies in the testimony of witnesses, when referring only to minor details and collateral matters, do not affect either the substance of their declaration, their veracity or the weight of their testimony.”¹⁵ Besides, “witnesses are not expected to remember every single detail of an incident with perfect or total recall.”¹⁶

The elements of illegal possession of dangerous drugs under Section 11, Article II of RA 9165 are: “(1) possession by the accused of an item or object identified to be a prohibited drug; (2) the possession is not authorized by law; and (3) the free and conscious possession of the drug by the accused. On the other hand, the elements of illegal possession of equipment, instrument, apparatus and other paraphernalia for dangerous drugs under Section 12 are: (1) possession or control by the accused of any equipment, apparatus or other paraphernalia fit or intended for smoking, consuming,



¹⁴ *People v. Lagman*, 593 Phil. 617, 625-626 (2008).

¹⁵ *People v. Fang*, 739 Phil. 565, 576 (2014).

¹⁶ *People v. Dimaano*, 780 Phil. 586, 609 (2016).

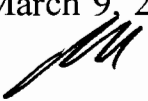
administering, injecting, ingesting or introducing any dangerous drug into the body; and (2) such possession is not authorized by law.”¹⁷

As found by the courts below, the evidence for the prosecution showed the presence of all these elements. “[F]indings of fact of the trial court, particularly when affirmed by the Court of Appeals, are binding upon this Court, save only for certain compelling reasons.”¹⁸ We find no cogent reason herein not to adopt and affirm the findings and conclusion of the courts below.

Section 12, Article II of RA 9165 provides that the penalty for illegal possession of dangerous drug paraphernalia be imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from ₱10,000.00 to ₱50,000.00. Hence, the indeterminate penalty of imprisonment, ranging from six (6) months and one (1) day, as minimum, to two (2) years, as maximum and a fine of ₱10,000.00 was correctly imposed by the RTC and affirmed by the CA in Criminal Case No. 2008-0341.

Section 11, Article II of RA 9165 provides that the penalty for illegal possession of dangerous drugs is imprisonment of “twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (₱400,000.00) to Five hundred thousand pesos (₱500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of x x x methamphetamine hydrochloride or “*shabu*”.

Since appellant was found to have been in illegal possession of 5.921 grams of *shabu*, appellant should have been meted the penalty of imprisonment ranging from twenty (20) years and one (1) day to life imprisonment and a fine ranging from ₱400,000.00 to ₱500,000.00. As such, the penalty of twenty (20) years and one (1) day, as minimum, to thirty (30) years, as maximum, and a fine of ₱400,000.00, imposed by the trial court and affirmed by the CA, is proper. As expounded by *J. Peralta* in his Concurring Opinion, “any period in excess of twenty [20] years [and one (1) day] is within the range of the penalty.”

WHEREFORE, in light of all the foregoing, we **DISMISS** the appeal and **AFFIRM** the March 9, 2015 Decision of the Court of Appeals in CA-G.R. CR No. 34933. 


¹⁷ *Zalameda v. People*, 614 Phil. 710, 727 (2009).

¹⁸ *People v. Clarite*, 682 Phil. 289, 296 (2012).


SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice

Plz. see concurring opinion

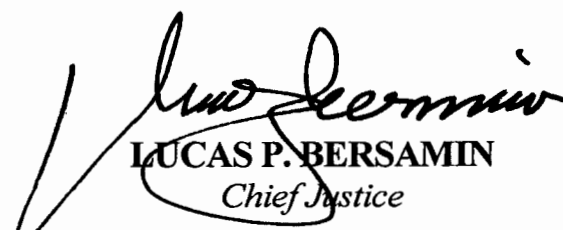

DIOSDADO M. PERALTA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


LUCAS P. BERSAMIN
Chief Justice