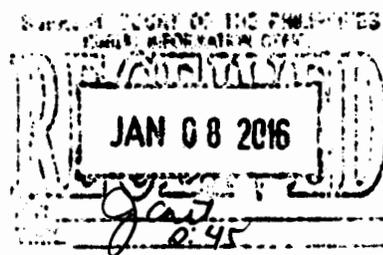




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 206593

Present:

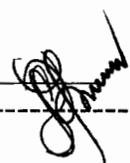
- versus -

SERENO, C.J.,
Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PEREZ, and
 PERLAS-BERNABE, JJ.

RAMONITO B. ASIGNAR,
 Accused-Appellant.

Promulgated:

NOV 10 2015

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RESOLUTION

PEREZ, J.:

This resolves accused-appellant Ramonito B. Asignar's appeal from the 31 March 2012 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR. HC No. 00966 affirming his conviction beyond reasonable doubt of violation of Sections 5 (Criminal Case No. CBU 70735), 11 (Criminal Case No. CBU 70733), and 12 (Criminal Case No. CBU 70734), Article II of Republic Act (R.A.) No. 9165 (The Comprehensive Dangerous Drugs Act of 2002).

By way of background, separate informations were filed against accused-appellant before the Regional Trial Court (RTC) of Cebu City, Branch 13, as follows:

For violation of Sec. 5,² Art. II of R.A. No. 9165 (Crim. Case No.

1 *Rollo*, pp. 3-16: Penned by Associate Justice Gabriel T. Ingles with Associate Justices Victoria Isabel A. Paredes and Pamela Ann Abella Maxino concurring.
 2 Records, p. 16.



CBU 70735):

That on August 24, 2004, at about 6:45 a.m. in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent and without being authorized by law, did then and there sell, deliver or give away to a poseur buyer the following: one (1) heat-sealed transparent plastic packet of 0.02 gram of white crystalline substance placed in a plastic pack locally knowns as “shabu” containing Methylamphetamine Hydrochloride, a dangerous drug.

For violation of Sec. 11,³ Art. II of R.A. No. 9165 (Crim. Case No. CBU 70733):

That on or about the 24th day of August, 2004, at 6:45 a.m. in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent and without being authorized by law, did then and there have in possession and under his control the following: three (3) transparent plastic packets containing traces of white crystalline substance locally knowns as “shabu”, containing Methylamphetamine Hydrochloride, a dangerous drug.

For violation of Sec. 12,⁴ Art. II of R.A. No. 9165 (Crim. Case No. CBU 70734):

That on or about the 24th day of August, 2004, at about 6:45 a.m. in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent and without being authorized by law, did then and there have in possession and under his control the following: two (2) disposable lighters used as an improvised burner one plastic paraphernalia for repacking shabu which are instruments and/or equipments fit or intended for smoking, consuming, administering, ingesting or introducing any dangerous drug into the body.

The above-cited cases were consolidated.

After trial, the RTC convicted accused-appellant in a decision, the dispositive portion of which reads:

WHEREFORE, judgement is hereby rendered finding accused **Ramonito B. Asignar GUILTY** beyond reasonable doubt of the following crimes:

3 Id. at 1.

4 Id. at 12.

1. Violation of Section 5, Article II, RA 9165, and sentences him to **Life Imprisonment**, plus fine in the amount of **FIVE HUNDRED THOUSAND (P500,000.00) PESOS**;
2. Violation of Section 11, Article II, RA 9165, and sentences him to **TWELVE (12) YEARS and ONE (1) DAY TO THIRTEEN (13) YEARS imprisonment**, plus fine in the amount of **THREE HUNDRED THOUSAND (P300,000.00) PESOS**; and
3. For Violation of Section 12, Article II, RA 9165, and sentences him to **SIX (6) MONTHS and ONE (1) DAY TO ONE (1) YEAR imprisonment**, plus fine in the amount of **TEN THOUSAND (P10,000.00) PESOS**.

All the shabu and shabu paraphernalia mentioned in the three informations are hereby ordered confiscated in favor of the government and destroyed pursuant to the provisions of RA 9165.

With cost against accused in all these three (3) cases.⁵

The seller and the buyer of *shabu* are clearly identified. They both testified. The 0.02 gram of *shabu* taken from accused-appellant was identified, marked, presented and admitted in evidence. It was found positive for the presence of methylamphetamine hydrochloride.⁶ The chain of custody of the object evidence was also well established. Accused-appellant was also found in possession of three packets with traces of *shabu* and *shabu* paraphernalia. They were clearly identified, marked, presented and admitted in evidence. There is no doubt therefore that the accused-appellant had intent to possess them. Aggrieved, his conviction was appealed before the CA.

In its Decision⁷ dated 31 May 2012, the appellate court affirmed the decision of the RTC, finding the accused-appellant guilty of all the charges. The Court of Appeals found that defense of extortion was solely on accused-appellant's testimony and no witness was presented to corroborate his testimony.

Hence, this appeal.

The parties manifested that they will no longer file a supplemental briefs and will adopt the briefs filed before the CA.

We dismiss the appeal. As aptly stated by the CA:

⁵ Id. at 95.

⁶ See Exhibit "G" for the prosecution.

⁷ *Rollo*, pp. 3-16.

For the successful prosecution of the illegal sale of shabu, only the following elements are essential: (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and its payment. What is material is proof that the sale actually took place, coupled with the presentation of evidence of the seized item, as part of the *corpus delicti*. The delivery of the illicit drug to the poseur-buyer and receipt by the seller of the marked money successfully consummate the buy-bust transaction.

The prosecution has already established the presence of all the elements. PO1 Solana, who acted as the poseur-buyer, positively identified [accused-appellant] as the person who came out to meet him, and dealt with him and the informant during the buy-bust operation. It was accused-appellant himself who gave a plastic sachet containing white crystalline substance. During the examination of the white crystalline substance bought by PO1 Solana from accused-appellant together with the three (3) other plastic packets containing traces of white crystalline substance tested positive for Methylamphetamine Hydrochloride, a dangerous drugs, per Chemistry report No. D-1525-2005 issued by the Philippine National Police Crime Laboratory.

For illegal possession of regulated or prohibited drugs, the prosecution must establish the following elements: (1) the accused is in possession of an item or object, which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug. All the elements were established in this case. Incident to his lawful arrest, when he was frisked three (3) plastic packets containing traces of white crystalline substance, later on found to be traces of a dangerous drug, was taken from his possession. In a number of cases, it has been declared that mere possession of a regulated drug per *se* constitutes *prima facie* evidence of knowledge or *animus possendi* sufficient to convict an accused absent a satisfactory explanation of such possession - the *onus probandi* is shifted to the accused, to explain the absence of knowledge or *animus possidendi*. Mere possession of the prohibited substance is a crime per *se* and the burden of proof is upon accused-appellant to show that he has a license or permit under the law to possess the prohibited drug. The accused-appellant failed to explain his possession of the prohibited drug. Accused-appellant was misled in his belief that the burden to prove the lack of license or permit to possess the prohibited drug lies with the prosecution.

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It must be remembered that findings of fact as determined by the trial court are entitled to great weight and respect from appellate courts and should not be disturbed on appeal unless for cogent reasons. These findings generally, so long as supported by evidence on record, are not to be disturbed unless there are some facts or evidence which the trial court has misappreciated or overlooked, and which if considered would have altered the results of the entire case. We see no reason to depart from this legal principles.

Furthermore the defense of extortion, used by accused-appellant, is greatly disfavored. Extortion can easily be concocted and fabricated. Accused-appellant could have presented his mother-in-law to corroborate his story but failed to do so. He could even have presented any of his nieces or nephews who he claims were nearby when he was brought to the hut. In failing to do so he was not able to strengthen an already weak defense.⁸

In fine, no cogent reason has been adduced to warrant a reversal of the findings and conclusions of the CA and the RTC adjudging accused-appellant guilty of violation of Sections. 5, 11 and Sec. 12, Art. II of R.A. No. 9165 (The Comprehensive Dangerous Drugs Act of 2002).

WHEREFORE, the judgment appealed from is hereby **AFFIRMED**.

Costs against accused-appellant.

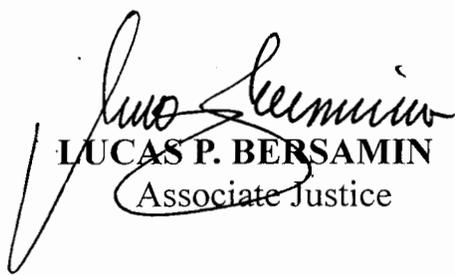
SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

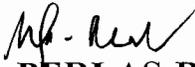
WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice

⁸ Id. at 13-15.


ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice