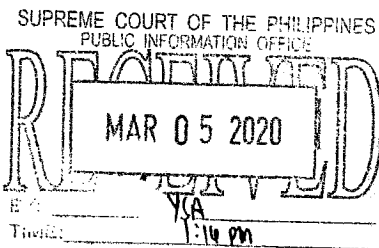




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila
SECOND DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **12 February 2020** which reads as follows:

“G.R. No. 239078 (*People of the Philippines v. Michael Francisco y Piano*). – After carefully reviewing the allegations, issues, and arguments adduced in the instant appeal, the Court resolves to **DISMISS** the same for lack of merit. The arguments raised by accused-appellant Michael Francisco y Piano (accused-appellant) are mere rehash of the arguments he raised before the Court of Appeals (CA).

The CA correctly affirmed the findings of the Regional Trial Court that accused-appellant is guilty beyond reasonable doubt of violations of Sections 5 and 11, Article II of Republic Act No. 9165. The prosecution satisfactorily established beyond reasonable doubt all the elements of the crimes. It is beyond cavil that after receipt of information from their confidential informant that accused-appellant was engaged in illegal drugs activities, the police officers conducted a surveillance and eventually a buy-bust operation on him. During the buy-bust, accused-appellant was caught *in flagrante delicto* selling *shabu* to the *poseur buyer*. During the search incidental to the arrest, several sachets of *shabu* were found in possession of the accused-appellant. The seized items were immediately marked at the scene of the arrest. “As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same.”¹ In any event, “the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.”² The police officers then immediately brought accused-appellant and the marked seized items to the police station where the inventory and taking of photographs of the same were done in the presence of the appellant, representatives from the media, Department of Justice and an elected official. This complies with the law which provides that -

the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel,

¹ *People v. De Motor*, G.R. No. 245486, November 27, 2019.

² *Id.*

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as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640, [as in this case], a representative from the media and the DOJ, and any elected public official, or (b) if after the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service OR the media.³

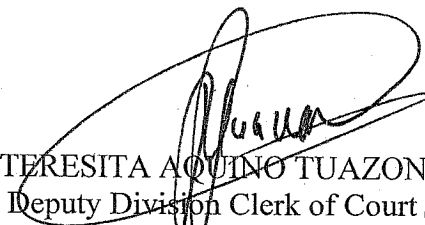
Thereafter, after chemical analysis, the seized items were found positive for *shabu*, a dangerous drug. The trial court and the CA also correctly found that the chain of custody as well as the identity and integrity of the seized items were properly preserved by the prosecution.

We likewise uphold the penalty imposed by the trial court as affirmed by the CA in Criminal Case No. 19096-SP(11) for the illegal sale of *shabu*, i.e., life imprisonment and a fine of ₱500,000.00. Section 5, Article II of RA 9165 provides that “the penalty of life imprisonment to death and a fine ranging from Five Hundred Thousand Pesos (₱500,000.00) to Ten Million Pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell x x x any dangerous drug x x x regardless of the quantity and purity involved.” However, as regards the penalty imposed in Criminal Case No. 19095-SP(11) for illegal possession of *shabu*, the penalty must be modified. Section 11, Article II of RA 9165 provides that “imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three Hundred Thousand Pesos (₱300,000.00) to Four Hundred Thousand Pesos (₱400,000.00) [shall be imposed] if the quantities of dangerous drugs are less than five (5) grams of x x x *shabu*. Thus, pursuant to prevailing jurisprudence, the penalty imposed is modified to imprisonment of twelve (12) years, four (4) months, and one (1) day to fourteen (14) years and six (6) months and a fine of ₱300,000.00⁴ instead of imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine of ₱300,000.00.

ACCORDINGLY, the Court resolves to **DISMISS** the appeal, **ADOPT** the findings of the CA and **AFFIRM** its July 7, 2017 Decision in CA-G.R. CR-HC No. 08071 subject to the **MODIFICATION** that accused-appellant Michael Francisco y Piano is sentenced to suffer the indeterminate sentence of imprisonment of twelve (12) years, four (4) months, and one (1) day to fourteen (14) years and six (6) months and a fine of ₱300,000.00 in Criminal Case No. 19095-SP(11).

SO ORDERED.” (Inting, J., no part for having penned the assailed Decision; Carandang, J., designated as additional Member vice Inting, J.)

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *Whh 2/28*

02 MAR 2020

³ Id.

⁴ See *De Villa v. People*, G.R. No. 224039, September 11, 2019.