

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MICHAEL GARCIA Y BERTUDEZ AND ORLANDO SANTOS Y BASA @ LANDO, ACCUSED,

Ponente: DIMAAMPAO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/14b470123cb0/>

DIMAAMPAO, J.:

Impugned in this Appeal is the Decision[1] dated 18 July 2013 of the Regional Trial Court of Manila, Branch 53, for violation of Section 11(3), Article II, Republic Act (RA) No. 9165,[2] in Criminal Case Nos. 07-252586 and 07-252587. The court a quo disposed, as follows:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered—

- In Criminal Case No. 07-252586, finding accused MICHAEL GARCIA y BERTUDEZ GUILTY beyond reasonable doubt of the crime of Violation of Sec. 11 (3), Article II, Republic Act 9165, and is hereby sentenced to suffer imprisonment of Twelve (12) years and one (1) day as minimum to Fifteen (15) years as maximum, and to pay fine in the amount of P300,000.00.

- And, in Criminal Case No. 07-252587, finding accused ORLANDO SANTOS y BASA @ Lando GUILTY beyond reasonable doubt of the crime of Violation of Sec. 11 (3), Article II, Republic Act 9165, and is hereby sentenced to suffer imprisonment of Twelve (12) years and one (1) day as minimum to Fifteen (15) years as maximum, and to pay fine in the amount of P300,000.00.

Cost against the accused.

SO ORDERED."[3]

The Informations inculping accused-appellant Michael Garcia y Bertudez (GARCIA) and co-accused Orlando Santos y Basa (Santos) for violation of Section 11 (3), Article II, R.A 9165 set forth the following accusatory averments:

Criminal Case No. 07-252586:

"The undersigned accuses MICHAEL GARCIA y BERTUDEZ of a (sic) Violation of Section 11 (3), Article II, R.A 9165, committed as follows:

That on or about April 19, 2007, in the City of Manila, Philippines, the said accused, without being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control white crystalline substance contained in one (1) heat-sealed transparent plastic sachet with 0.018 (ZERO POINT ZERO ONE EIGHT) gram containing methylamphetamine hydrochloride, known as "SHABU", a dangerous drug.

CONTRARY TO LAW."[4]

Criminal Case No. 07-252586:

"The undersigned accuses ORLANDO SANTOS Y BASA @ "LANDO" of a (sic) Violation of Section 11 (3),

Article II, R.A 9165, committed as follows:

That on or about April 19, 2007, in the City of Manila, Philippines, the said accused, without being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control white crystalline substance contained in one (1) heat-sealed transparent plastic sachet with 0.019 (ZERO POINT ZERO ONE NINE) gram containing methylamphetamine hydrochloride, known as "SHABU", a dangerous drug.

CONTRARY TO LAW."[5]

Arraigned, GARCIA and Santos pled not guilty to the charge.[6] During the trial, Santos jumped bail and remained at large.

The prosecution endeavored to demonstrate the inculpatory averments in this wise:

On 19 April 2007, PO2 Reynaldo Mallari (PO2 Mallari) received a call from a concerned citizen about a commotion at Benita Street, Tondo, Manila. After reporting the matter to the Chief of Station Anti-Illegal Drugs (SAID), PO2 Mallari and PO2 Cornelio Vicente (PO2 Vicente) were dispatched to the reported place to verify the incident. Upon arriving at the target area, both officers, accompanied by the informant, did not notice any commotion but the latter recognized a woman who was allegedly the wife of a drug pusher, talking to GARCIA and Santos. Upon a spot surveillance, at a distance of 10 meters, PO2 Mallari saw the woman hand a plastic sachet to GARCIA. In turn, GARCIA handed the same to Santos. PO2 Mallari and PO2 Vicente approached them but GARCIA immediately ran away. PO2 Mallari pursued GARCIA and eventually caught him. When GARCIA was asked to empty his pockets, PO2 Mallari recovered from his possession one plastic sachet. PO2 Mallari marked the plastic sachet with "MBG" and gave it to the assigned investigator who prepared the Request for Laboratory Examination. In time, PO2 Mallari delivered the confiscated item to the forensic chemist. The specimen yielded positive for methamphetamine hydrochloride (shabu), a dangerous drug.[7]

Railing against the prosecution's imputations, the defense recounted a different version—

On the date of the incident, GARCIA was drinking inside a beer house. Suddenly, he saw PO2 Mallari arresting Santos who was also in the same place. GARCIA was likewise arrested when he asked PO2 Mallari why he apprehended Santos. Thereafter, GARCIA was brought to the police precinct where he was hit with a "balila".

Weighing the divergent postures of the prosecution and the defense, the court a quo rendered the repugned judgment of conviction.

Unfazed, GARCIA (now, appellant) seeks refuge before Us ascribing a solitary error—

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF VIOLATION OF SECTION 11, ARTICLE II OF R.A. NO. 9165 NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The Appeal is barren of merit.

Appellant quibbles with the prosecution for its failure to establish the proper chain of custody of the shabu allegedly seized from him, in violation of Section 21 of RA No. 9165. First, neither was a photograph taken nor a physical inventory conducted by the arresting officer. Second, the seized item was marked sans the presence of appellant and/or her representative. Third, the marking of the confiscated item was not done at the scene of the incident. Fourth, no explanation was made as to how the item was handled and stored at the crime laboratory until it was presented in court.

Appellant's disputations do not sit well with settled jurisprudence.

Well-ensconced is the rule that the failure of the prosecution to show that the police officers conducted the required physical inventory and take photograph of the objects confiscated does not ipso facto render inadmissible in evidence the items seized. There is a proviso in the implementing rules stating that when it is shown that there exists justifiable grounds and proof that the integrity and evidentiary value of the evidence have been preserved, the seized items can still be used in determining the guilt or innocence of the accused.[8] What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.[9]

In the same vein, case law teaches Us that the failure of the policemen to immediately mark the confiscated items does not automatically impair the integrity of the chain of custody. Moreover, the failure of the policemen to mark the confiscated items at the place of arrest does not render the confiscated items inadmissible in evidence.[10]

In the case at bench, the integrity of the drugs seized remained unscathed. A fleeting glance at the record discloses that PO2 Mallari was in custody of the shabu from the time he recovered and marked the same with "MBG", representing appellant's initial until he turned over the item to the assigned investigator, who, in turn, immediately prepared a request for laboratory examination. The illegal drugs were personally delivered by PO2 Mallari to the Manila Police District Crime Laboratory for examination, and these were duly received by Police Senior Inspector Elisa Reyes (PSI Reyes), a Forensic Chemist. The result of the examination yielded positive for shabu. PSI Reyes brought the subject specimen in court during the trial; this was identified and attested to by PO2 Mallari as the same drug recovered from appellant.[11] Unarguably, the drug seized from appellant was never tampered with or switched before this was delivered to and chemically examined by PSI Reyes. Ergo, all persons who obtained and received the item seized did so in the performance of official duty.

It bears emphasis that appellant was undisputably caught in actual possession of shabu. Actual possession exists when the drug is in the immediate physical possession or control of the accused.[12] Mere possession of a regulated drug per se constitutes prima facie evidence of knowledge or animus possidendi 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.[13] The prosecution tellingly established all the elements of illegal possession of dangerous drugs: one, appellant was in possession of one heat-sealed transparent plastic sachet with 0.018 gram containing methylamphetamine hydrochloride (shabu) recovered from his right front pocket when searched by the arresting officer; two, such possession is not authorized by law; and, three, appellant freely and consciously possessed the said drug.[14]

One final point. It is doctrinal that findings of the trial courts, which are factual in nature and which involve credibility, are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial.[15]

Taking Our cue from the foregoing jurisprudential precepts, We discern no cogent reason to deviate from the findings of the court a quo. In sooth, the judgment of conviction deserves Our approbation.

WHEREFORE, the Appeal is hereby DENIED. The Decision dated 18 July 2013 of the Regional Trial Court of Manila, Branch 53, in Criminal Case Nos. 07-252586 and 07-252587, is AFFIRMED.

SO ORDERED.

Ybañez, and Manahan, JJ., concur.

[1] Original Records, pp. 185-189.

[2] The Comprehensive Dangerous Drugs Act of 2002.

[3] Original Records, pp. 188-189.

[4] Id., p. 2.

[5] Rollo, p. 12.

[6] Original Records, pp. 26-30.

[7] TSN, 5 August 2008.

[8] See *People v. Montevirgen*, 712 SCRA 459, 470 (11 December 2013).

[9] *Marquez v. People*, 693 SCRA 468, 474 (13 March 2013).

[10] See *Imson v. People*, 653 SCRA 826 , 835 (13 July 2011).

[11] TSN, 5 August 2008, pp. 10-11; Exh. "D", Original Records, p. 131; Order, Id., p. 104.

[12] See *Del Castillo v. People*, 664 SCRA 430, 445 (30 January 2012), citing *People v. Tira*, 430 SCRA 134 (28 May 2004).

[13] See *People v. Posing*, 703 SCRA 62, 81 (31 July 2013).

[14] Elements of illegal possession of dangerous drugs (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 possesses the said drug. Ibid.

[15] See *People v. Quesido*, 695 SCRA 572, 586 (10 April 2013), citing *People v. Lapasaran*, 687 SCRA 663.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.