

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO BASCO Y BACLAYON A.K.A. “NONOY, ACCUSED-APPELLANT.

Ponente: INTING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/46ea42bfb25d/>

INTING, J.:

Under review in this APPEAL is the Decision[1] dated August 26, 2011 of the Regional Trial Court, Branch 13, Zamboanga City in Criminal Case No. 5882 (21959) finding accused-appellant, ANTONIO BASCO Y BACLAYON, guilty beyond reasonable doubt.

The facts of the case are as follows:

At about 10:00 in the morning of September 9, 2005, a civilian informant appeared at the Zamboanga City Central Police Office located at Governor Lim Avenue, Zamboanga City, and informed C/Insp. Haywin Salvado that a certain “Nonoy” of Aquino Drive is selling or pushing shabu in the area. Salvado asked the informant several questions and made him draw a sketch of the location. After which, Salvado asked the members of his team to conduct a surveillance in order to confirm the report. The following day, another surveillance was conducted by the same team to confirm the illegal activities of Antonio as reported to them. As a result of the confirmation, on September 16, 2005, Salvado briefed the members of his team on the planned buy-bust operation. At about 3:00 o’clock in the afternoon of the same day, Salvado together with the other five members of the team proceeded to Aquino Drive. SPO2 Robert Roca, who was designated as the poseur-buyer, rode in a motorcycle together with the informant. The other members were on board an L-300 van.

Upon their arrival at the area, Roca parked the motorcycle. He and the informant proceeded on foot until they spotted the subject, Antonio. The informant introduced Roca to Antonio. After Roca told Antonio that he wanted to buy shabu in the amount of P100.00, the latter left the area. After about 40 seconds, Antonio returned and handed to Roca a sachet of shabu. When Roca received the shabu, he handed to Antonio the P100.00 buy-bust money. Roca then executed the pre-arranged signal by removing his bull cap. Thereafter, Roca introduced himself as a police officer and arrested Antonio. Instantly, PO1 Bobon rushed to the scene to assist Roca in the arrest of Antonio. They informed Antonio of his constitutional rights. Roca recovered from Antonio the P100.00 consisting of two pieces of fifty peso bill from his pocket. They then handcuffed Antonio and brought him to the Zamboanga City Police where he was later on identified as Antonio Basco y Baclayon.

In an Information[2] dated September 17, 2005, Antonio Basco was charged for Violation of Section 5, Article II of Republic Act No. 9165, committed as follows:

That on or about September 16, 2005, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused not being authorized by law to sell, deliver, give away to another, transport or distribute any dangerous drug, did then and there willfully, unlawfully and feloniously SELL and DELIVER to SPO2 ROBERTO L. ROCA, a bonafide member of the PNP assigned with the ZCPO Anti-Illegal Drug Special Operation Task Force, who acted as poseur-buyer, one (1) piece heat-sealed transparent plastic sachet containing 0.0131 gram of white crystalline substance which subjected to qualitative examination gave positive result to the test for the presence of METHAMPHETAMINE HYDROCHLORIDE

(shabu), knowing the same to be a dangerous drug.

CONTRARY TO LAW.

Accused-appellant pleaded not guilty to the offense charged[3]. After the pre-trial, trial on the merits ensued.

The prosecution presented the testimony of SPO2 Roca and PO1 Bobon as evidence. They also presented other evidence consisting of the registration of the marked money[4], the two pieces of marked P50.00 bill, the affidavits of SPO2 Roca and PO1 Bobon[5], the inventory of seized items[6] and the sachet of shabu which was found to contain methamphetamine hydrochloride as indicated in Chemistry Report No. D-319-2005[7] conducted by PSI Melvin Manuel pursuant to a request for laboratory examination[8]. The other pieces of evidence included the Investigation Report[9] and the Forwarding Report[10].

Accused-appellant Antonio, on the other hand, tells a different tale. He testified that on September 16, 2005, he was at home because it was his day off as a construction worker. At about 3:00 in the afternoon, his mother asked him to buy snacks. On his way to the store, a man he met along the way asked him if he knew of a certain house for sale. He replied in the negative. Then, another person who was in a motorcycle arrived, stopped, and handcuffed the man who asked him about the house. He believed the man with the motorcycle to be a policeman because he was carrying a short firearm. The policeman asked him if he knew the person handcuffed. Antonio answered in the negative. Subsequently, a third person arrived on foot and asked Antonio of the money he was holding. Antonio replied that it was for buying snacks. The handcuffed person, however, pointed to Antonio. The policeman and the third person then brought Antonio and the handcuffed person to the Zamboanga Central Police Office where they placed Antonio in a detention cell. Accused-appellant further testified that he later knew the handcuffed person as a certain Bong. He asked Bong why he implicated him in the crime but Bong did not give any answer. He did not know what happened to Bong anymore.

Accused-appellant denied the allegations against him and further alleged that the police officers arrested him just because somebody else pointed to him as the person who sold the shabu.

On August 26, 2011, the RTC rendered judgment against accused-appellant, the dispositive portion of which provides:

WHEREFORE, the foregoing considered, this Court finds accused ANTONIO BASCO Y BACLAYON aka "NONOY" GUILTY beyond reasonable doubt of the crime of VIOLATION OF SECTION 5, ARTICLE II OF R.A. 9165 and hereby sentences him to suffer a penalty of LIFE IMPRISONMENT and a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000) without subsidiary imprisonment in case of insolvency. Let the Methamphetamine Hydrochloride weighing 0.0131 gram involved in this case be turned over to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.

Hence, the instant appeal by accused-appellant raising the lone assignment of error, viz:

I.

THE COURT A QUO GRAVELY ERRED IN CONVICTING APPELLANT WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

Our Ruling

The appeal is devoid of merit.

First, accused-appellant contends that the arresting officers did not coordinate with the PDEA in conducting the

buy-bust operation, hence, in violation of Section 86 of RA 9165[11]. He also argues that no evidence was presented by the prosecution to prove that a briefing and surveillance was held before the actual buy-bust.

We do not agree. In the case of *People v. Roa*[12], the Supreme Court ruled that coordination with the PDEA is not an indispensable requirement before police authorities may carry out a buy-bust operation. It held:

While it is true that Section 86 of Republic Act No. 9165 requires the National Bureau of Investigation, PNP and the Bureau of Customs to maintain “close coordination with the PDEA on all drug related matters,” the provision does not, by so saying, make PDEA’s participation a condition sine qua non for every buy-bust operation. After all, a buy-bust is just a form of an in flagrante arrest sanctioned by Section 5, Rule 113 of the Rules of the Court, which police authorities may rightfully resort to in apprehending violators of Republic Act No. 9165 in support of the PDEA. A buy-bust operation is not invalidated by mere non-coordination with the PDEA.

Neither does the contention of accused-appellant that the absence of a briefing and surveillance before the actual buy-bust rendered the buy bust operation invalid, holds water. Contrary to the allegation of accused-appellant, SPO2 Roca testified that a surveillance was conducted by the team, first on September 9, 2005 and the second on the following day or on September 10, 2005. Even granting *arguendo* that there was indeed no surveillance, the same has no bearing on the legality of the buy-bust operation for it has been held that the lack of prior surveillance is not fatal.[13] In *People v. Ganguso*[14], the Supreme Court ruled that prior surveillance is not a prerequisite for the validity of an entrapment operation, especially when the buy-bust team members were accompanied to the scene by their informant. There is no rigid or textbook method of conducting buy-bust operations. Flexibility is a trait of good police work. The police officers may decide that time is of the essence and dispense with the need for prior surveillance.[15]

Second, accused-appellant argues that the required procedure on the seizure and custody of drugs embodied in Section 21 of RA 9165 was not shown to have been complied with by the arresting officers. No physical inventory and photograph of the seized items were taken in the presence of accused-appellant or his counsel, nor was there present a representative from the media and DOJ and an elective official immediately after the alleged buy bust. It is also his contention that the drugs recovered could not be admitted in evidence as the same is covered by the “Exclusionary Rule” as there was no warrant for the arrest and search made to him. Furthermore, accused-appellant argues that the prosecution failed to present all who took custody of the dangerous drugs, such as SPO3 Federico Lindo. As such, the link in the chain of custody was broken.

The contentions fail to persuade.

The Supreme Court has consistently ruled that non-compliance with the requirements of Section 21 of Republic Act No. 9165 will not necessarily render the items seized or confiscated in a buy-bust operation inadmissible.[16] 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.[17] We recognize that the strict compliance with the requirements of Section 21 may not always be possible under field conditions; the police operates under varied conditions, and cannot at all times attend to all the niceties of the procedures in the handling of confiscated evidence.[18]

A review of the evidence on record will show that the prosecution was able to establish an unbroken chain of custody over the shabu which it claims as having been sold and possessed by accused-appellant. The testimony of SPO2 Roca reads[19]:

PROSECUTOR:

Q:

Ok. Mr. Witness, that sachet of shabu which you said he gave you in exchange of that money which you gave him, can you identify that?

A:

Yes, sir.

Q:

How can you identify that?

A:

I put my initial, sir.

Q:

What initial did you place there?

A:

R R, sir.

Q:

What does that R R represents?

A:

Roberto Roca, sir.

Q:

When did you place your initial?

A:

At the sachet, sir.

Q:

When?

A:

On September 16, 2005, sir.

Q:

And after you placed your initial, what did you do with the sachet?

A:

I gave it to the Investigator, sir, SPO3 Frederico Lindo, Jr.

Q:

I am showing to you a sachet of shabu already marked Exhibit “B”, will you please tell the relationship of this to the sachet of shabu which you said was given to you by the accused on said buy bust operation.

A:

Yes, this is the very one I bought from Antonio Basco.

Q:

Why do you say that?

A:

Because of my initial, R.R. (witness pointing to his initial.)

Moreover, SPO2 Roca testified that a picture of the accused was taken and an inventory of the seized items was also done which was duly signed by him and PO1 Bobon and all of which were then turned over to the Investigator, SPO1 Lindo.[20] It is also worth noting that the testimony of SPO1 Lindo was dispensed with by the parties and thereafter entered into stipulations, viz: a) that SPO1 Lindo was the investigator in the instant case; b) that he took cognizance of the case by virtue of the complaint and assignment sheet; c) that he received the person of accused-appellant, one sachet of shabu marked as Exhibit B, and the two pieces of P50.00 bill marked money as Exhibit G; d) that he also prepared the request for laboratory examination; and e) that he prepared the Investigation report and forwarding report. The fact that the investigator was not part of the team who conducted the buy-bust operation and that he has no personal knowledge as to the origin of the sachet of shabu does not in any way break the custodial link since the seized sachet of shabu was marked by the apprehending officers. The act of marking the same was the point of reference by the investigator to make sure that the object was the very same object taken from accused-appellant.[21]

In order to successfully prosecute an offense of illegal sale of dangerous drugs, like shabu, the following elements must first be established: (1) the identity of the buyer and the seller, the object and consideration of the sale; and (2) the delivery of the thing sold and the payment therefore.[22] An examination of the records shows that the prosecution competently and convincingly established these essential elements, viz: (1) SPO2 Roca acted as poseur-buyer to entrap accused-appellant who was suspected of selling shabu during a legitimate buy-bust operation; (2) SPO2 Roca, along with the informant, approached accused-appellant and told the latter that they wanted to buy shabu; (3) SPO2 Roca, as poseur-buyer, tendered the P100.00 marked money to accused-appellant; and (3) accused-appellant, in return, handed one (1) sachet of shabu to SPO2 Roca. The chemistry report conducted on the specimen resulted in shabu with a total weight of 0.0131 gram.

Accused-appellant's asseveration that he was merely framed up is self-serving and uncorroborated, and must fail in light of the straightforward and positive testimonies of SPO2 Roca and PO1 Bobon identifying him as the seller of the shabu.

The integrity of the evidence is presumed to have been preserved unless there is a showing of bad faith, ill will, or

proof that the evidence has been tampered with.[23] Accused-appellant bears the burden of showing that the evidence was tampered or meddled with in order to overcome the presumption of regularity in the handling of exhibits by public officers and the presumption that public officers properly discharged their duties. Accused-appellant in this case failed to present any plausible reason to impute ill motive on the part of the arresting officers. Thus, the testimonies of the apprehending officers deserve full faith and credit.[24]

WHEREFORE, the Decision dated August 26, 2011 of the Regional Trial Court, Branch 13, Zamboanga City in Criminal Case No. 5882 (21959) is hereby AFFIRMED.

SO ORDERED.

Camello (Chairperson) and Lopez, JJ., concur.

[1] Records, pp. 105-112, penned by Hon. Judge Eric D. Elumba

[2] Records, p. 1

[3] Records, p. 38

[4] Records, p. 10

[5] Records, p. 6-7

[6] Records, p. 11

[7] Records, p. 9

[8] Records, p. 8

[9] Records, p. 5

[10] Records, p. 3

[11] An Act Instituting The Comprehensive Dangerous Drugs Act Of 2002, Repealing Republic Act No. 6425, Otherwise Known As The Dangerous Drugs Act Of 1972, As Amended, Providing Funds Therefor, And For Other Purposes

[12] G.R. No. 186134, May 6, 2010

[13] Supra

[14] G.R. No. 115430, 23 November 1995, cited by People v. Roa, G.R. No. 186134, May 6, 2010

[15] Supra Note No. 12, citing People v. Tranca, G.R. No. 110357, 17 August 1994

[16] Supra Note No. 12

[17] People v. Llanita, G.R. No. 189817, October 3, 2012

[18] Supra

[19] TSN, June 23, 2008, pp. 16-17

[20] TSN, June 23, 2008, pp. 24-25, 40-41

[21] People v. Pajarin, G.R. No. 190640, January 12, 2011

[22] People v. Llanita, G.R. No. 189817, October 3, 2012

[23] People v. Octavio, G.R. No. 199219, April 3, 2013

[24] Supra

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.