

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR LOPEZ ALIAS “EGA”, ACCUSED-APPELLANT.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d42d7c665333/>

HERNANDO, J:

Before Us is an Appeal from the Decision[1] dated March 12, 2010 rendered by the Regional Trial Court (RTC), Branch 57 of Cebu City in Crim. Case No. CBU-70989 finding accused-appellant Edgar Lopez alias “Ega” guilty beyond reasonable doubt for Violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002.” The dispositive portion of the assailed Decision reads:

For all the foregoing, the guilt of the accused duly established beyond reasonable doubt, accused Edgar Lopez, is hereby sentenced to suffer the penalty of life imprisonment and a fine of P500,000.00.

The one plastic sachet of shabu is forfeited in favor of the government.

SO ORDERED.[2]

The Antecedents:

Accused-appellant was charged with a Violation of Section 5, Article II of R.A No. 9165 in an Information[3] dated July 22, 2004, the accusatory portion of which reads:

That on or about the 10[th] day of April, 2004, at about 12:45 in the morning, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, and without authority of law, did then and there sell, deliver or give away to a poseur buyer one (1) plastic packet weighing 0.08 gram of white crystalline substance locally known as “SHABU” containing Methamphetamine hydrochloride, a dangerous drugs.

CONTRARY TO LAW.

When arraigned on November 25, 2004, accused, with the assistance of counsel, entered a plea of not guilty.[4] After the pre-trial was terminated, trial on the merits ensued.[5]

To establish the guilt of accused Edgar Lopez, the prosecution presented the following witnesses: (1) Forensic Chemist, P/Sr. Insp. Alexander Patriana; (2) Senior Police Officer (SPO1) Elmo Rosales; and (3) Police Officer (PO) 3 Patrick Mumar.

Version of the Prosecution

On April 9, 2004, a confidential informant notified the police office of Cebu City regarding the alleged illicit drug activities of accused Edgar Lopez alias “Egay” in Abi-Abi Drive, A. Lopez Street, Calamba, Cebu City. Pursuant to said information, a police team, consisting of SPO1 Elmo Rosales, PO3 Gil Garcia, PO2 Cirilo Luague, PO1 Dindo Lumapac and PO3 Patrick Mumar, was organized to conduct a buy-bust operation against accused in the said place. PO3 Mumar was designated as the poseur buyer and was furnished with a hundred peso bill as buy-bust money.

On April 10, 2004 at 12:45 in the morning, the buy-bust team proceeded to Abi-Abi Drive, A. Lopez Street, Cebu

City. PO3 Mumar and the confidential asset alighted from the police service vehicle ahead of the team and were met thereafter by accused and a certain Neil Maturillas Gaviola. The rest of the team, on the other hand, followed the two and strategically positioned themselves in the area.

Initially, accused asked the confidential asset how much shabu he was going to buy. The latter then introduced PO3 Mumar as his friend who was willing to buy shabu. Appellant then got one plastic sachet containing white crystalline substance from Gaviola and gave the same to PO3 Mumar. In turn, PO3 Mumar handed the pre-marked one hundred peso bill to accused as payment thereof and the latter gave it to Gaviola. At that point, PO3 Mumar then executed the pre-arranged signal by calling the cellphone of one of the buy-bust team members.

When accused and Gaviola noticed that the buy-bust team was approaching, they scampered away. PO3 Mumar, however, was able to grab Gaviola but accused evaded arrest.

PO3 Mumar then apprised Gaviola of his constitutional rights and was asked to empty his pockets. PO3 Mumar recovered the buy-bust money from the right side pocket of Gaviola's short pants and another plastic sachet containing white crystalline substance was recovered from his left pocket. Thereafter, PO3 Mumar gave the two plastic packs containing suspected shabu to SPO1 Rosales. The latter then marked them at the crime scene. The first plastic sachet which was recovered from the transaction was marked with "NMG" while the second plastic pack seized from Gaviola's pocket was marked with "NMG-1". "NMG" represented the name of Neil Maturillas Gaviola. Moments later, Gaviola and the confiscated items were brought to the police station. On their way, SPO1 Rosales remained in possession of the confiscated items.

In the station, a letter-request request and the necessary reports were prepared by SPO1 Rosales. Thereafter, the letter-request and the confiscated item marked as "NMG" were brought by PO1 Lumapac accompanied by SPO1 Rosales and PO3 Mumar to the PNP Crime Laboratory where the item was received by PO1 Cabahug. When the specimen was subjected to a laboratory examination, it yielded positive for the presence of methylamphetamine hydrochloride, a dangerous drug, per Chemistry Report No. D-640-2004.

Version of the Defense

Accused Edgar Lopez interposed the defense of denial. He testified that on April 10, 2004 at around 12:45 in the morning, he was at home looking after his children who were then watching television. He recalled that there was nothing unusual that happened that night.

On cross-examination, accused declared that he knew Neil Gaviola and learned from a friend that Gaviola's house located in Sitio Sto. Nino, A. Lopez St., Labangon, Cebu City was searched on April 10, 2004. He alleged that Gaviola was arrested as a result of the said raid and not because Gaviola sold shabu to a police officer. Accused further declared that his house was about 75 meters away from that of Gaviola. Hence, he was surprised to be implicated in the instant case. He, however, admitted in court that he was previously convicted of violation of Section 11, Art. II of R.A. 9165.

On March 12, 2010, the court a quo rendered its assailed Decision finding accused Edgar Lopez guilty as charged.

Hence, this appeal by the accused-appellant anchored on a lone assignment of error:

The Assigned Error:[6]

I.

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE COMMISSION OF THE OFFENSE CHARGED BEYOND REASONABLE DOUBT.

The Court's Ruling:

We affirm the conviction of accused-appellant for violation of Section 5, Article II of Republic Act No. 9165.

In praying for his acquittal, appellant raises two points. First, he asserts that his identity as the seller was not adequately proven; and second, the prosecution failed to indisputably show that the integrity of the corpus delicti had been preserved.

In support of his first assertion, appellant points out that the seized item was marked with "NMG" which are not his initials. He further alleged that the transaction took place in a dimly-lighted area and that PO3 Mumar was not familiar with and had no personal knowledge of the physical attributes of the subject person in the buy-bust operation as in fact, it was only the asset who pointed and identified him as the one allegedly involved in illegal transactions.

These arguments fail to persuade Us. On the contrary, We find overwhelming evidence on record to support appellant's conviction of the crime charged.

For a successful prosecution of the 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 therefor.[7] What is material is proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti.[8] Clearly, the commission of the offense of illegal sale of dangerous drugs, like shabu, merely requires the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller.[9]

Here, contrary to the belief of appellant, his identity as the seller was more than sufficiently established. This is evident from the positive, categorical and straightforward testimony of PO3 Mumar, who personally witnessed appellant's commission of the crime being the poseur buyer during the conduct of the buy-bust operation against appellant. The narration of PO3 Mumar on what had transpired in the morning of April 10, 2004 is worth emphasizing, thus:

Q:

If you can recall, where were you on April 10, 2004 at around 12:45 in the morning?

A:

We were at the Abi-abi Drive, Barangay Calamba conducting buy bust operation against a certain Egay.

Q:

Abi-abi Street is in what city?

A:

Cebu City.

Q:

Is Egay male or female?

A:

Male, maám.

Q:

What was your particular role if any, during this operation?

A:

I was the poseur buyer.

Q:

And as poseur buyer, what were you supposed to do during this buy bust operation?

A:

As a poseur buyer I will be the one to transact the buying of the illegal stuff against the subject.

Q:

What illegal stuff are you referring to particularly?

A:

Shabu.

Q:

How much shabu are you going to buy in this buy bust operation from Egay?

A:

P100.00 worth of shabu.

Q:

So how much money were you going to use during this buy bust operation?

A:

At this buy bust operation we used only P100.00 paper bill.[10]

x x x x x x x x

Q:

What happened once you get at Abi-abi Drive?

A:

Once we arrived at the vicinity of Abi-abi Drive, I was dropped by the team with the asset and we walked directly to the interior portion of Abi-abi Drive.

Q:

Did you know this subject Egay prior to your arrival in Abi-abi Drive?

A:

No, ma'am.

Q:

So how did you recognize the subject once you are in Abi-abi Drive?

A:

Our asset already gave me the information because our asset is a regular customer of the subject.

Q:

So you could identify the subject through the asset who was with you at that time?

A:

Yes, maám.

Q:

So what happened next?

A:

After we reached the interior portion of Abi-abi Drive, we were met by two persons whom we later on knew as the subject Edgar Lopez and Neil Maturillas Gaviola alias Neil.

Q:

So this subject Egay is the same as Edgar Lopez?

A:

Yes, maám.

Q:

And is Edgar Lopez the same Edgar Lopez who is the accused in this case?

A:

Yes, maám.[11]

x x x x x x x x

Q:

After they met you, what happened or what transpired?

A:

This Egay directly asked my assist(sic) if how much I will be going to buy the stuff.

Q:

So before Egay asked your asset how much stuff you are going to buy, was there any conversation between Egay and your asset?

A:

After Egay asked my asset if how much we are going to buy, my asset instead introduced me to Egay as his friend that I will be the one to buy illegal stuff from him.

Q:

How did your asset introduce you exactly to Egay?

A:

He introduced me as his friend.

Q:

And what did Egay say if any upon hearing the introduction?

A:

He did not say anything after hearing that he got the stuff from Neil then gave it to me.

Q:

So when Egay asked your asset how much stuff your asset was going to buy, did not your asset give any answer to Egay aside from introducing you to Egay as his friend?

A:

He told Egay that I will be the one to buy stuff from Egay.

Q:

What did Egay get from Neil?

A:

The one pack of white crystalline substance.

Q:

How did Egay get this one pack of white crystalline substance from Neil, what if any did he tell Neil when he wanted to get that one pack of white crystalline substance?

A:

He just get the stuff from Neil.

Q:

So he did not say anything?

A:

Yes, maám.

Q:

He handed this to you?

A:

Yes, maám.

Q:

After he handed to you, what happened next?

A:

After receiving the white crystalline substance, I made the miss call and after that I gave the buy bust money to Egay then Egay gave it to Neil Gaviola.

Q:

When you received the plastic pack of white crystalline substance, did you recognize already what that plastic pack of white crystalline substance was?

A:

Yes, I suspected it was shabu.

Q:

And why did you suspect that it was shabu?

A:

Because the manner of the transaction between Egay and our asset he said stuff, so that means the white crystalline substance, stuff for shabu.

Q:

After you gave the buy bust money to Egay what happened?

A:

As I said after Egay gave the stuff, I gave the buy bust money, I made a miss call then the back up came and after sensing my back up coming, they scampered away but I got hold of Neil Marturillas Gaviola.

Q:

What about the subject Egay, what happened to him while you got hold of Neil Gaviola?

A:

He proceeded to run but he was chased by my back up but unfortunately he was not arrested.[12] (Emphasis supplied)

x x x x x x x x

The foregoing testimony indisputably shows that the appellant was in fact the seller of the illicit drug. Appellant facilitated the illegal transaction. It was with him that the confidential asset and PO3 Mumar transacted in buying the packet of shabu. Accordingly, appellant cannot just evade liability simply because the packet of shabu which was the subject of the sale came from the possession of a certain Neil Maturillas Gaviola. Neither can he assert that he was not the real seller on the mere basis that the marking was not in his initials. It must be recalled that the police officers explained that the recovered plastic pack of shabu was marked with “NMG” considering that the same actually came from the possession of Neil Gaviola[13] and that it was the latter who was initially arrested.[14] In fact, another case was likewise filed ahead against said Gaviola.

Moreover, notwithstanding that the illegal transaction took place in a dimly-lighted area, the fact that the sale actually occurred cannot be denied. As already pointed out, the poseur buyer himself, PO3 Mumar, testified clearly and in no uncertain terms that he was able to buy from appellant a packet of shabu worth Php100.00. This positive declaration of PO3 Mumar was further duly corroborated[15] by SPO1 Rosales when he testified that he actually saw the exchange of the buy-bust money and the illicit drug.

In like manner, there could likewise be no confusion as to the identity of appellant as the seller in view of the positive identification made by PO3 Mumar in court. With no hesitation, PO3 Mumar identified appellant as the same “Ega” who was the subject of their April 10, 2004 buy-bust operation and the person who transacted with

him on the sale of shabu.

In fine, We are in conformity with the trial court in ruling that all the above-enumerated elements for sale of dangerous drugs were all adequately and convincingly proven by the prosecution. There is no doubt that the appellant was caught red-handed in the act of selling illegal drug during the buy-bust operation. As aptly found by the trial court and which We reiterate:

Going over the testimony of PO2 Mumar, the designated poseur buyer, he testified that he together with the male asset walked towards the interior portion of Abi-Abi Drive, Calamba, Cebu City with the rest of the team as back up. At the area, they were met by the accused and Neil Maturillas Gaviola @ Neil. The accused asked the asset directly as to how much stuff he was going to buy. The asset introduced to the accused the buyer (PO3 Mumar) as his friend who is interested to buy. He got the buy bust money of P100.00 and gave it to the accused who in turn gave it to Gaviola. Accused got a plastic sachet of shabu from Gaviola and in turn handed it to PO2 Mumar, the poseur buyer. The delivery of the shabu in exchange for the P100.00 indicates the consummation of the transaction of sale of illegal drugs.

“The delivery of the illicit drug to the poseur buyer and the receipt of the seller of the marked money successfully consummated the buy bust operation.[16] (Citation omitted)

On the other hand, the defense of denial interposed by appellant must be rejected. Not only is denial an inherently weak defense, it cannot also prevail over the positive testimonies[17] of the police officers in this case especially in the light of the foregoing that appellant offered no evidence of ill-motive on the part of the police officers to falsely charged him.

Furthermore, the second assertion of appellant that there was substantial failure to preserve the identity and evidentiary value of the corpus delicti deserves scant consideration.

To recall, right after the illegal sale took place, PO3 Mumar made the pre-arranged signal by calling PO1 Lumapac on his cellphone. However, upon sensing that the police team was approaching, appellant was able to run away leaving behind Gaviola who was apprehended by the police officers. At that point, the illicit drug subject of the sale was in PO3 Mumar's possession. Thereafter, he gave it to SPO1 Rosales who marked the same at the crime scene with the initials “NMG” representing Neil Maturillas Gaviola. On their way to the police station, the confiscated illegal drug remained in the possession of SPO1 Rosales. At the station, the latter prepared a letter-request for its laboratory examination. Thereafter, the letter-request and the confiscated illicit drug were brought by PO1 Lumapac, together with SPO1 Rosales and PO3 Mumar, to the PNP Crime Laboratory for laboratory examination and received by a certain PO1 Cabahug. Thereafter, P/ Sr. Insp. Patriana conducted a forensic laboratory examination on the specimen submitted and the result yielded positive for the presence of methylamphetamine hydrochloride, or commonly known as shabu as evidenced by Chemistry Report No. D-640-2004[18] and Certification[19] dated April 12, 2004 which was issued by Police Senior Inspector Forensic Chemical Officer David Alexander Patriana.

Given the foregoing undisputed facts, there can be no question at all that the evidentiary value and integrity of the seized items had been duly preserved. This remains true notwithstanding that the buy-bust team failed to draft an inventory of the confiscated items at the crime scene and that no photographs were taken thereof.

We stress first that there was actually an inventory report made by SPO1 Rosales of the recovered items although not at the crime scene and that the latter failed to present the same in view of the fire that gutted their office on August 16, 2004. At any rate, in *Imson v. People*[20], the failure of the policemen to make a physical inventory and to photograph the plastic sachet containing shabu do not render the confiscated items inadmissible in evidence. In that case, the Supreme Court held:

In *People v. Campos*, the Court held that the failure of the policemen to make a physical inventory and to photograph the confiscated items are not fatal to the prosecution's cause. The Court held that:

The alleged procedural lapses in the conduct of the buy-bust operation, namely the lack of prior coordination with the PDEA and the failure to inventory and photograph the confiscated items immediately after the operation, are not fatal to the prosecution's cause.

X X X X X X X X

The absence of an inventory of personal effects seized from appellant becomes immaterial to the legitimacy of the buy-bust operation for it is enough that it is established that the operation was indeed conducted and that the identity of the seller and the drugs subject of the sale are proven. *People v. Concepcion* so instructs:

"After going over the evidence on record, we find that there, indeed, was a buy-bust operation involving appellants. The prosecution's failure to submit in evidence the required physical inventory of the seized drugs and the photography pursuant to Section 21, Article II of Republic Act No. 9165 will not exonerate appellants. Non-compliance with said section is not fatal and will not render an accused's arrest illegal or the items seized/confiscated from him inadmissible. 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. (Emphasis supplied)

In the present case, as already established, the integrity and the evidentiary value of the illicit drug was properly preserved from the time it was recovered until its presentation before the trial court.

All told, We hold that appellant's guilt for the offense charged had been duly proven by the prosecution beyond the shadow of doubt.

WHEREFORE, in the light of the foregoing, the instant appeal is DENIED for lack of merit. The assailed Decision dated March 12, 2010 of the Regional Trial Court, Branch 57 of Cebu City in Crim. Case No. CBU-70989 is hereby AFFIRMED. No pronouncement as to cost.

SO ORDERED.

Quijano-Padilla and Azcarraga-Jacob, JJ., concur.

[1] Penned by Presiding Judge Enriqueta Loquillano-Belarmino; Record, pp. 138-142.

[2] Ibid, p. 142.

[3] Record, pp. 1-2.

[4] Record, per Certificate of Arraignment, p. 23.

[5] Record, per Order dated March 31, 2005, p. 36.

[6] Brief for the Accused-Appellant; Rollo, p. 31.

[7] *People v. Ricky Unisa y Islan*, G.R. No. 185721, September 28, 2011.

[8] Ibid.

[9] Ibid.

[10] Transcript of Stenographic Notes, July 25, 2008, pp. 4-5.

[11] Ibid, pp. 6-7.

[12] Ibid, pp. 7-10.

[13] TSN, August 22, 2007, p. 14.

[14] TSN, July 25, 2008, p. 13.

[15] TSN, August 22, 2007, pp. 11-12.

Q:

You said earlier that after you followed Mumar and the police asset two minutes later, there was a miss call received by PO1 Lumapac. Just before the miss call was received by Lumapac, what if any did you see happened between those two persons whom you were waiting at that time Mumar, the asset and the two persons?

A:

I observed that Lumapac got something from the other person who was later on identified as Neil Maturillas Gaviola and then Edgar Lopez handed to PO1 Mumar and I also observed from the lateral movements of the hands of Mumar that he was giving something to Edgar Lopez and Edgar Lopez handed the same to Neil Maturillas Gaviola and that is the time that the cellphone of PO1 Lumapac rang.

[16] Record, Judgment, p. 140.

[17] People v. Rocabo, G.R. No. 193482, March 02, 2011.

[18] Exh. "C"; Record, p. 103.

[19] Exh. "D"; Record, p. 104.

[20] G.R. No. 193003, July 13, 2011.

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.