

THE PEOPLE OF THE PHILIPPINES, APPELLEE, EDWIN PARTOZA Y EVORA, APPELLANT.

G.R. No. 182418. May 08, 2009

Ponente: TINGA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-182418/>

TINGA, J.:

On appeal is the Decision[1] of the Court of Appeals promulgated on 5 October 2007 affirming the conviction by the Regional Trial Court[2] (RTC) of San Mateo, Rizal of Edwin Partoza y Evora (appellant) for the crime of possession and sale of dangerous drug.

Appellant was charged in two (2) separate Informations before the Regional RTC with possession and sale of shabu, viz:

Criminal Case No. 6524

That on or about the 2[nd] day of November 2002, in the Municipality of San Mateo, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and knowingly have in his possession, direct custody and control one (1) heat-sealed transparent plastic sachet of white crystalline substance weighing 0.04 gram, which substance, after confirmatory test, was found positive to the test of Methamphetamine Hydrochloride, a dangerous, popularly known as "shabu" a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.[3]

Criminal Case No. 6525

That on or about the 2[nd] day of November 2002, in the Municipality of San Mateo, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and knowingly sell, deliver and give away to another person one (1) heat-sealed transparent plastic sachet weighing 0.04 gram of white crystalline substance which gave positive result to the screening and confirmatory test for Methamphetamine Hydrochloride, a dangerous, popularly known as "shabu" a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.[4]

Upon arraignment, appellant pleaded not guilty to both Informations. Trial ensued.

PO3 Juanito Tougan (PO3 Tougan) testified for the prosecution and narrated that on 2 November 2002 at around 7:30 p.m., the police received an information from an informant that a certain Parto was selling shabu at Sta. Barbara Subdivision, Brgy. Ampid I, San Mateo, Rizal. Parto had apparently been under surveillance by the police for selling prohibited drugs. They immediately planned a buy-bust operation, with PO3 Tougan acting as the poseur-buyer. Tougan received a P100.00 bill from the police chief and placed the serial numbers of the bill on the police blotter.[5]

PO3 Tougan, together with PO2 Pontilla and the civilian informant then proceeded to Sta. Maria Subdivision. However, before the actual buy-bust operation, the group responded to a commotion in the area where they arrested a certain Noel Samaniego.[6] Thereafter, they went to Neptune corner Jupiter Street and spotted Parto in the tricycle terminal. The informant initially approached appellant. The latter then went near the tricycle where PO3 Tougan was in and asked him, "How much[?]" PO3 Tougan replied, "Piso lang," which means P100.00. Upon exchange of the money and the plastic sachet containing the white crystalline substance, PO3 Tougan immediately alighted from the tricycle, grabbed Parto's hand and introduced himself as a policeman. PO3 Tougan was able to recover another plastic sachet from the hand of Parto.[7]

At the police station, the two (2) plastic sachets confiscated from Parto were marked. After marking, the police immediately prepared the request for laboratory examination.[8]

Chemistry Report No. D-2157-02E confirmed that the two (2) plastic sachets seized from appellant were positive for methamphetamine hydrochloride, or shabu.[9]

Appellant denied the charges against him. He claimed that he was driving a female passenger in his tricycle at around 7:00 p.m. on 2 November 2002 going to Sta. Maria. Upon reaching Jupiter Street, appellant turned left and noticed the police officers trying to arrest a person who was then causing trouble. PO2 then Pontilla approached appellant and asked why he was driving drunk. Appellant explained that he had been offered a drink by his friends. He was asked to alight from his tricycle, took his driver's license and invited him to go to the police station.[10]

On 28 April 2005, the trial court convicted appellant beyond reasonable doubt of illegal possession and illegal sale of dangerous drugs. The dispositive portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in these two cases, as follows:

- In Criminal Case No. 6524 finding accused EDWIN PARTOZA Y EVORA GUILTY BEYOND REASONABLE DOUBT of the crime of Possession of Dangerous Drug (Violation of Section 11, 2nd par.[.] No. 3 of Art. II of R.A. [No.] 9165) and sentencing him to suffer the penalty of imprisonment of Twelve (12) years and one (1) day to Twenty (20) years and a fine of Three Hundred Thousand Pesos (P300,000.00);
- In Criminal Case No. 6525 finding accused EDWIN PARTOZA Y EVORA GUILTY BEYOND REASONABLE DOUBT of the crime of Sale of Dangerous Drug (Violation of Sec. 5, 1st par.[.] Art. II of R.A. No. 9165) and sentencing him to suffer the penalty of life imprisonment and a fine of P500,000.00.

The drugs "shabu" confiscated from accused's possession are forfeited in favor of the government and is directed to be turned over to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.[11]

The trial court ruled that the prosecution was able to prove that appellant had taken the money in exchange for the shabu. It gave full faith and credence to the testimony of PO3 Tougan.

On appeal, the Court of Appeals affirmed the conviction.

The appellate court held that the prosecution had successfully adduced evidence which proved beyond reasonable doubt that appellant had sold one (1) sachet of shabu to PO3 Tougan, who had acted as the poseur buyer during a legitimate buy-bust operation. The Court of Appeals held further that appellant, after having been validly arrested and in the course of the subsequent incidental search, had been found with another sachet of shabu in his body.[12]

Appellant elevated the case to this Court via Notice of Appeal.[13] In its Resolution[14] dated 30 June 2008, this

Court resolved to notify the parties that they may file their respective supplemental briefs, if they so desire, within thirty (30) days from notice. Both parties adopted their respective appellant's and appellee's briefs, instead of filing supplemental briefs.[15]

Appellant maintains that the presumption of regularity, upon which his conviction rests, should not take precedence over the presumption of innocence. He challenges PO3 Tougan's account of the events that transpired on 2 November 2002 considering that the police were present in the vicinity to respond to a report that Samaniego had been causing trouble and not to conduct a buy-bust operation. Appellant also questions the integrity of the evidence used against him on the grounds of failure to mark the items seized from him immediately and failure to observe the chain of custody as required under Section 21 of R.A. No. 9165.[16]

The Office of the Solicitor-General (OSG), on the other hand, insists that the direct testimony of PO3 Tougan sufficiently established the elements of illegal sale and possession of shabu. With respect to the marking, the OSG argues that PO3 Tougan held on to the sachets from the time he confiscated them from appellant until such time that he was able to place his initials on them and submitted the duly accomplished request for examination of said sachets to the crime laboratory. Finally, the OSG avers that Section 21 of R.A. No. 9165 which pertains to the chain of custody and disposition of confiscated or seized drugs was not yet applicable at the time appellant committed his crimes.

In order to successfully prosecute an accused for illegal sale of drugs, the prosecution must be able to prove the following elements: (1) identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.[17] What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale or had actually taken place, coupled with the presentation in court of evidence of corpus delicti.[18]

Otherwise stated, in illegal possession of dangerous drugs, the elements are: (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 said drug.[19] Similarly, in this case, the evidence of the corpus delicti must be established beyond doubt.

Section 21(1) of R.A. No. 9165 mandates that the apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.

In *People v. Obmiranis*,^[20] appellant was acquitted due to the flaws in the conduct of the post-seizure custody of the dangerous drug allegedly recovered from appellant, taken together with the failure of the key persons who handled the same to testify on the whereabouts of the exhibit before it was offered in evidence in court.^[21] In *Bondad v. People*,^[22] this Court held that the failure to comply with the requirements of the law compromised the identity of the items seized, which is the corpus delicti of each of the crimes charged against appellant, hence his acquittal is in order.^[23] And in *People v. De la Cruz*,^[24] the apprehending team's omission to observe the procedure outlined by R.A. No. 9165 in the custody and disposition of the seized drugs significantly impairs the prosecution's case.^[25]

In the instant case, it is indisputable that the procedures for the custody and disposition of confiscated dangerous drugs in Section 21 of R.A. No. 9165 were not complied with.

PO3 Tougan stated that he marked the two plastic sachets containing white crystalline substance in the police

station, thus:

Q

And after handing to him the P100.00 bill[,] what reaction was there, if any, from this alias Parto?

A

He immediately handed to me one (1) plastic sachet containing shabu, sir.

x x x

Q

After placing him under arrest what, if any, did you do next?

A

After holding his hand, I immediately introduced myself as a policeman, sir.

Q

What else did you do after that?

A

I was able to recover another plastic sachet from his hand and also the P100.00 bill that I used in buying the shabu with serial number EN-668932, sir.

x x x

Q

And having informed him of his constitutional rights[,] where did you take him, if any?

A

It did not take long PO2 Pontilla arrived [sic] and we brought him to the police station together with his tricycle, sir.

x x x

Q

At the station[,] what happened to the two (2) plastic sachets, one that was the subject of the sale and one which was the subject of your confiscation?

A

I placed my initial, sir.[26]

PO3 Tougan did not mark the seized drugs immediately after he arrested appellant in the latter's presence. Neither did he make an inventory and take a photograph of the confiscated items in the presence of appellant. There was no representative from the media and the Department of Justice, or any elected public official who participated in the operation and who were supposed to sign an inventory of seized items and be given copies thereof. None of these statutory safeguards were observed.

While this Court recognizes that non-compliance by the buy-bust team with Section 21 is not fatal as long as there

is a justifiable ground therefor, and as long as the integrity and the evidentiary value of the confiscated/seized items are properly preserved by the apprehending team,[27] yet these conditions were not met in the case at bar. No explanation was offered by PO3 Tougan for his failure to observe the rule.

Furthermore, while PO3 Tougan admitted to have in his possession the shabu from the time appellant was apprehended at the crime scene to the police station, records are bereft of proof on how the seized items were handled from the time they left the hands of PO3 Tougan. PO3 Tougan mentioned a certain Inspector Manahan as the one who signed the request for laboratory examination. He did not however relate to whom the custody of the drugs was turned over. Furthermore, the evidence of the prosecution did not reveal the identity of the person who had the custody and safekeeping of the drugs after its examination and pending presentation in court. The failure of the prosecution to establish the chain of custody is fatal to its cause.

All told, the identity of the corpus delicti in this case was not proven beyond reasonable doubt.

The courts below heavily relied on the testimony of PO3 Tougan and in the same breadth, banked on the presumption of regularity. In *People v. Garcia*,[28] we said that the presumption only arises in the absence of contrary details in the case that raise doubt on the regularity in the performance of official duties. Where, as in the present case, the police officers failed to comply with the standard procedures prescribed by law, there is no occasion to apply the presumption.[29]

WHEREFORE, in view of the foregoing, the Decision dated 5 October 2007 of the Court of Appeals affirming the judgment of conviction of the Regional Trial Court, Branch 76, San Mateo, Rizal is hereby REVERSED and SET ASIDE. Appellant Edwin Partoza y Evora is ACQUITTED based reasonable doubt and is ordered immediately RELEASED from detention, unless he is confined for any other lawful cause.

The Director of the Bureau of Corrections is DIRECTED to IMPLEMENT this Decision and to report to this Court the action taken hereon within five (5) days from receipt.

SO ORDERED.

Carpio-Morales,[*] (Acting Chairperson), Velasco, Jr., Leonardo-De Castro,**] and Brion, JJ., concur.

* Acting Chairperson as replacement of Justice Leonardo A. Quisumbing who is on official leave per Special Order No. 618.

** Additional member of the Second Division per Special Order No. 619.

[1] Rollo, pp. 2-18; Penned by Associate Justice Andres B. Reyes, Jr, concurred in by Associate Justices Arcangelita Romilla-Lontok and Ramon M. Bato, Jr.

[2] Presided by Pairing Judge Elizabeth Balquin-Reyes.

[3] Records, p. 1.

[4] Id. at 67-68.

[5] TSN, 6 March 2003, p. 3.

[6] TSN, 13 March 2003, p. 3.

[7] TSN, 6 March 2003, pp. 4-5.

[8] Id. at 6.

- [9] Records, p. 8.
- [10] TSN, 6 August 2003, p. 3.
- [11] CA rollo, p. 56.
- [12]Id. at 111.
- [13] Id. at 122-123.
- [14]Rollo, pp. 24-25.
- [15] Id. at 28-32.
- [16] CA rollo, pp. 44-46.
- [17] People v. Agulay, G.R. No. 181747, 26 September 2008.
- [18]People v. Dela Cruz, G.R. No. 181545, 8 October 2008.
- [19] People v. Naquita, G.R. No. 180511, 28 July 2008.
- [20] G.R. No. 181492, 16 December 2008.
- [21]Id.
- [22]G.R. No. 173804, 10 December 2008.
- [23] Id.
- [24]G.R. No. 177222, 29 October 2008.
- [25] Id.
- [26]TSN, 6 March 2003, pp. 5-6.
- [27] People v. Sanchez, G.R.No. 175832, 15 October 2008.
- [28] G.R. No. 173480, 25 February 2009.
- [29] Id.

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.