PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSELITO NASARA Y DAHAY, APPELLANT.

G.R. No. 188328. August 25, 2010

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-188328/

CARPIO MORALES, J.:

Joselito "Jojo" Nasara (appellant) was convicted by the Regional Trial Court (RTC) of Quezon City, Branch 103 for violation of Section 5, Article II, of Republic Act No. 9165, (R.A. No. 9165) or the Dangerous Drugs Act of 2002.

The accusatory portion of the Information against appellant, together with "another person," reads:

> That on or about the 16[th] day of March 2004 in Quezon City, Philippines, the said accused conspiring and confederating with another person whose thru (sic) name, identity and whereabouts has not as yet ascertained and mutually helping each other not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there, wilfully (sic), and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point zero three (0.03) grams of white crystalline substance containing methylamphetamine hydrochloride, a dangerous drug.
>
> CONTRARY TO LAW.[1] (underscoring supplied)

From the evidence for the prosecution, the following version is culled:

In the morning of March 16, 2004, a confidential informant reported at Police Station 6, Batasan Hills, Quezon City the selling of illegal drugs along San Miguel Street, Payatas, Quezon City.

On the instruction of P/Supt. Raymond Esquivel, SPO2 Rodelio Dionco, PO2 Rolando Lopez (PO2 Lopez), SPO4 Constancio Pitaga and SPO4 Reynaldo Angeles conducted a buy-bust operation in the area. SPO2 Dionco, who was designated as poseur-buyer, was given two 100 peso bills and instructed to scratch his head to signal the consummation of the sale.

Upon arriving at San Miguel Street at 10:30 A.M., also on March 16, 2004, SPO2 Dionco and the informant approached appellant who was standing, together with a certain Kune, outside a small store. The informant thereupon introduced to Kune and appellant SPO2 Dionco as a prospective buyer. As appellant asked how much was being bought, SPO2 Dionco handed the two bills to appellant who, together with Kune, went inside a house adjacent to the store. When the two returned, Kune handed a small plastic sachet containing white crystalline substances to SPO2 Dionco who, after examining it, scratched his head.

As the back-up police officers were closing in, SPO2 Dionco introduced himself as a police officer to appellant and Kune who shoved him and both ran away. The rest of the team gave a chase and caught appellant but not Kune.

The police officers recovered the money from the right pocket of appellant's short pants. On inspection of the

house, SPO2 Dionco found on top of a television set two plastic sachets containing substances similar to those inside the sachet handed to him by Kune. These two sachets were marked by PO2 Lopez with his initials "RL".[2]

The buy-bust team thereafter brought appellant to the police station, together with the seized items which were turned over to the Desk Officer. A memorandum[3] was then prepared by P/Insp. Abelardo Aquino, addressed to the Chief of the Central Police District, Physical Science Division, requesting for the conduct of laboratory examination on the seized items to determine the presence of dangerous drugs and their weight, which memorandum was delivered by PO2 Lopez and received at 7:00 p.m. of March 16, 2004 by "Nard" Jabonillo.

Upon receipt of the sachets, Engr. Leonard Jabonillo, Forensic Analyst of the Central Police District Crime Laboratory Office, conducted a laboratory examination thereof and recorded his findings in Chemistry Report No. D-292-2004 that each of the three heat-sealed plastic sachets contained 0.03 grams and was positive for methylamphetamine hydrochloride.[4]

Appellant, denying the accusation, claimed that he was framed-up. His version goes: On March 16, 2004, while he was resting inside the house of one Nelson Balawis in San Miguel, he heard some kalabugan which prompted him to go outside where he saw three armed men, one of whom pointed a gun at him. When he asked why, the man shouted to his companions "Damputin yan!," and he was in fact apprehended and brought to a waiting vehicle.

Inside the vehicle were two men who were also accosted and who informed him that the police officers acquired from them 2.5 grams of shabu, P11,000.00 in cash, and a cellular phone.

Finding for the prosecution, the trial court convicted appellant, disposing as follows:[5]

> ACCORDINGLY, judgment is hereby rendered finding the accused JOSELITO "JOJO" MASARA (sic) Y DAHAY, GUILTY beyond reasonable doubt of violating Section 5 of RA 9165 (for drug pushing) as charged and he is hereby sentenced to a jail term of LIFE IMPRISONMENT and to pay a fine of P500,000.00.
>
> The shabu involved in this case in three (3) small plastic sachets of 0.03 gram each are ordered transmitted to PDEA thru DDB for proper care and disposition as per RA 9165.
>
> SO ORDERED.[6] (emphasis in the original)

Ruling out appellant's defense of frame-up, the trial court observed, quoted verbatim:

> Jojo testified that he saw two arrested persons inside the FX van where he was also boarded and who told him that the police got from them 2.5 grams of shabu, P11,000.00 cash and a cellphone. If this were so, then those policemen already have (sic) enough sequestered merchandise to bother going after Jojo who, based on his claim, had just gotten out of his room, jobless as a construction crewman for three months, penniless, and who must have clearly appeared to those three (3) armed men mentioned by the defense as a person, from whom they could get nothing. So why bother with him if after all Jojo was not the subject of their going to that place. x x x[7] (underscoring supplied)

As stated earlier, the Court of Appeals affirmed appellant's conviction, hence, the present petition.

In the main, appellant claims that there was failure to follow the requirements of Sec. 21 of R.A. No. 9165, hence, it compromised the integrity and evidentiary value of the allegedly seized items.

It bears noting that the Information is for selling "0.03 gram" of shabu, and that the two heat-sealed plastic sachets each also containing the same 0.03 gram of shabu allegedly confiscated from the house were presented to corroborate the prosecution's evidence.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Sec. 21 of R.A. No 9165 provides:

> Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources or dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and or surrendered, for proper disposition in the following manner:
>
> (1)
>
> 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 persons/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; x x x (emphasis and underscoring supplied)

The issue, in the event of non-compliance with above-quoted provision of R.A. No. 9165, does not pertain to admissibility of evidence, but to weight-evidentiary merit or probative value thereof.[8]

People v. Dela Cruz[9] enlightens:

> As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered in evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same. (emphasis and underscoring supplied)

In the present case, the records do not show that the procedural requirements of Section 21 with respect to the custody and disposition of confiscated drugs were followed. No physical inventory and photographs were taken. On that score alone, the case for the prosecution fails, absent a plausible explanation to justify failure to comply with the requirements.

Parenthetically, there is even no showing that coordination with PDEA prior to and after the conduct of the buy-bust operation was made, in violation of Section 86 (a), Implementing Rules and Regulations to R.A. 9165.[10]

Given the purpose of conducting a laboratory examination of the suspicious items seized â”€ to determine if indeed they contain, in this case, shabu, a more strict standard is imposed by law to ascertain that they are the same items seized or are not substituted or adulterated. Said standard has not been observed in the present case.

The chain of custody was, however, broken after SPO2 Dionco failed to mark the first sachet which is the subject of the sale and the subject of the Information. Why said sachet, together with the two others, was delivered to the PNP Crime Laboratory after more than eight hours from initial custody of the apprehending officers was not even explained.

The police officers-members of the buy-bust team cannot bank on the presumption of regularity in the performance of their duties. The presumption has been destroyed upon their unjustified failure to conform to the procedural requirements mentioned above.[11]

The prosecution having failed to discharge its onus of proving the guilt beyond reasonable doubt of appellant, his exoneration is in order.

WHEREFORE, the appeal is GRANTED. The assailed decision of the appellate court is REVERSED and SET ASIDE. Appellant, Joselito "Jojo" Nasara y Dahay, is ACQUITED for failure of the prosecution to prove his guilt beyond reasonable doubt.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections who is ORDERED to release appellant, unless he is being lawfully held for another offense, and to inform this Court of action taken within ten (10) days from notice hereof.

SO ORDERED.

Brion, Bersamin, Villarama, Jr., and Sereno, JJ., concur.

---

[1] Records, p. 1.

[2] TSN, June 22, 2004, p. 19. - PO2 Lopez testified that the initials "RL" were marked on the sachets However, in the Chemistry Report, the initials were indicated as "RD".

[3] Exh. "D," records, p. 6.

[4] Records, p. 7

[5] Id. at 98-102.

[6] Id. at 102.

[7] Id. at 101.

[8] People v. Del Monte, G.R. No. 179940, April 23, 2008, 552 SCRA 627.

[9] G.R. No. 181545, October 8, 2008, 568 SCRA 273, citing Lopez v. People. G.R. No. 172953, April 30, 2008, 553 SCRA 619.

[10] IMPLEMENTING RULES AND REGULATIONS TO R.A. 9165 - Section 86 (a) Relationship/Coordination between PDEA and Other Agencies. - The PDEA shall be the lead agency in the enforcement of the Act while the PNP, the NBI and other law enforcement agencies shall continue to conduct anti-drug operations in support of PDEA: Provided, that the said agencies shall, as far as practicable, coordinate with the PDEA prior to anti-drug operations; Provided, further, that, in any case, said agencies shall inform the PDEA of their anti-drug operations within twenty-four (24) hours from the time of actual custody of the suspects or seizure of said drugs and substances, and shall regularly update the PDEA on the status of the cases involving the said anti-drug operations; x x x

[11] People v. Santos, Jr., G.R. No. 175593, October 17, 2007, 536 SCRA 489.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

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.