

SPECIAL SECOND DIVISION

[CA-G.R. CR. H.C. No. 05249, June 26, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ABELARDO DEL VALLE Y PALANAN, ACCUSED-APPELLANT.**

D E C I S I O N

BRUSELAS, JR. J.:

Brought to the Court for review is a Decision^[1] that found the accused-appellant Abelardo Del Valle y Palanan ("**Del Valle**" for brevity), together with another accused, guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs. The decretal portion of which reads as follows:

"WHEREFORE, accused ABELARDO DEL VALLE y PALANAN is hereby found GUILTY beyond reasonable doubt of illegal sale of dangerous drug, in violation of Section 5, Article II of Republic Act No. 9165, and hereby imposed the penalty of life imprisonment and a fine of five hundred thousand pesos (P 500,000.00). For insufficiency of evidence, he is ACQUITTED of the charge of violation of Section 11 of said law.

Accused JERALD SAJUCON [sic] y SOLIS is hereby found GUILTY beyond reasonable doubt of illegal use of a dangerous drug, in violation of Section 15, Article II of RA 9165, and hereby imposed the penalty of six months rehabilitation in a government center. He is, however, ACQUITTED of the charge of violation of Section 12 of the same law.

Both abovenamed accused may be credited with the period that they have served under preventive imprisonment, in accordance with Article 29 of the Revised Penal Code, as amended, and applicable rules.

Accused PABLO HEREDIA y ESCANILLA is hereby ACQUITTED of the charges filed against him.

The Clerk of Court is hereby directed to turn over with dispatch the drug specimen subject of this case to the Philippine Drug Enforcement Agency (PDEA) for proper disposition. She is further directed to return the marked P 500.00 bill attached to the records to the DAID-SOTG, Northern Police District Caloocan City.

SO ORDERED."^[2]

On 23 November 2010, two (2) separate pieces of information for Violation of Sections 5^[3] and 11,^[4] Article II of Republic Act No. 9165,^[5] were filed against Del Valle. The accusatory portions of the two pieces of information read:

"That on or about November 20, 2010, in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, without

any authority of law, did then and there willfully, unlawfully and feloniously sell to PO1 Herbert A. Bagain, Jr., who posed as buyer of zero point zero seven grams (0.07) of Methamphetamine Hydrochloride (Shabu), knowing the same to be a dangerous drug.

CONTRARY TO LAW.”^[6]

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“That on or about November 20, 2010 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously have in his possession and control one (1) heat-sealed transparent plastic sachet containing zero point zero three grams (0.03) of white crystalline substance Methylamphetamine Hydrochloride (Shabu), knowing the same to be a dangerous drugs (sic).

CONTRARY TO LAW.”

On even date, two (2) more separate pieces of Information were also filed against accused Pablo Heredia y Escanilla (“**Heredia**”) and Jerald Sajucom y Solis (“**Sajucom**”) for violation of Sections 12^[7] and 15,^[8] Article II of the same law. The accusatory portions of the two pieces of information read:

“That on or about November 20, 2010 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any authority of law, did then and there willfully, unlawfully and feloniously use a white crystalline substance Methylamphetamine Hydrochloride (Shabu), knowing the same to be a dangerous drug.

CONTRARY TO LAW.”

“That on or about November 20, 2010 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any authority of law, did then and there willfully, unlawfully and feloniously use a white crystalline substance Methylamphetamine Hydrochloride (Shabu), knowing the same to be a dangerous drug.

CONTRARY TO LAW.”

When arraigned, the three (3) accused individuals pleaded “*Not Guilty*” to all the charges against them. Since the four (4) cases were founded on the same facts and closely related, upon motion of the public prosecutor, which was not objected to by the defense, the cases were tried jointly.

The prosecution presented six (6) witnesses: 1) Forensic Chemist PCI Maridel Rodis (“*PCI Rodis*”); 2) PO3 Roberto Cahilig (“*PO3 Cahilig*”); 3) PO3 Randy M. Llanderal (“*PO3 Llanderal*”); 4) PO1 Herbert Bagain, Jr. (“*PO1 Bagain*”); 4) SPO1 Fernando Gomboc (“*SPO1 Gomboc*”); 5) PO3 Ariosto Rana (“*PO3 Rana*”); and 6) Media Reporter Maeng Santos (“*Ka Maeng Santos*”). The defense, on the other hand, presented the three (3) accused individuals.

The factual circumstances presented by the prosecution reveal that at around 11:00 in the morning of 09 November 2010, while SPO1 Gomboc and PO1 Bagain, police officers who were members of the District Anti-Illegal Drug Special Operation Task Group, Northern Police District (DAID-SOTG, NPD) and deputized by the Philippine Drug Enforcement Agency-Metro Manila Regional Office (PDEA-MMRO), were on duty inside their police station located at Langaray, Kaunlaran Village, Caloocan City, Metro Manila, two (2) regular confidential informants arrived thereat. According to the two informants, there was rampant selling of illegal drugs by a certain alias "Jessica" and a certain alias "Eddie" of Libis, Baesa, Caloocan, Metro Manila, as well as by alias "Michael" and alias "Nora" of Justicia, Marulas, Valenzuela, Metro Manila.

PO1 Bagain asked the confidential informants for the important details pertaining to the above-mentioned drug pushers. The confidential informants told PO1 Bagain that @ "Michael" and @ "Nora" were selling shabu usually early in the morning in a house located near the river and Daang Bakal of Valenzuela, and which also served as the place where drug users engaged in pot sessions. PO1 Bagain immediately relayed the confidential information he got to their chief, PC/Insp. Arnold Thomas Ibay ("PC/Insp Ibay")

Upon being informed of the alleged illegal drug trading of @ "Michael" and @ "Nora", as well as the related drug activities in one of the houses along Justicia, Marulas, Valenzuela, PC/Insp. Ibay assigned PC/Insp. Leoben T. Ong ("PC/Insp. Ong") to be the team leader of a group which would conduct surveillance and buy-bust operation against the target persons.

During the briefing, PC/Insp. Ong designated PO1 Bagain to act as the poseur-buyer. He was given a Five Hundred Peso (P 500) bill with the marking "HAB".^[9] On the other hand, SPO2 Gomboc was instructed by PC/Insp. Ong to be the back-up officer of PO1 Bagain. In addition, PO1 Bagain was tasked to coordinate with the PDEA-MMRO regarding their planned surveillance and buy-bust operation against the drug suspects.

Pursuant to this, the duty officer in PDEA issued to the group of PC/Insp. Ong PDEA-MMRO Control Number 110-00157 for their coordination sheet^[10] dated 20 November 2010. PC/Insp. Ong likewise issued a *Pre-Operation Report*^[11] containing the names of their target persons, namely, @ "Jessica", @ "Eddie", @ "Michael" and @ "Nora" who were allegedly engaged in illegal drug activities in Caloocan, Malabon, Valenzuela and Navotas areas.

Around 5:45 in the early morning of November 20, 2010, the buy-bust team headed by PC/Insp. Ong, left the police station since @ "Michael" and @ "Nora" usually conduct their illegal drug transactions during that time. The group of PC/Insp. Ong, mainly composed of SPO2 Gomboc and PO1 Bagain, PO3 Cahilig, PO3 Llanderal and the two (2) regular confidential informant, used three (3) different private vehicles, a white Toyota Corolla taxi, a gray Toyota Corolla and an orange Mitsubishi Adventure, in going to the target place bringing with them items for inventory such as blank inventory form, masking tape, black ball pen, white coupon bond, and cellphone with camera, which they would use in the course of their buy-bust operation.

Around 6:30 in the morning of 20 November 2010, the buy-bust team arrived at the target place along Justicia St., Marulas, Valenzuela, Metro Manila. Immediately thereafter, the police officers instructed one of the informants to check the area if

the target persons were there. After fifteen (15) minutes, the said informant called the police officers to inform them that it was only alias "*Toto*", *bata* or *tauhan* of @ "*Michael*" and @ "*Nora*", who was there selling *shabu*. The informant also told the policemen that there were two men waiting for their turn to use *shabu* in any designated place therein. Having learned that the place was indeed positive for illegal drug activities, PC/Insp. Ong conducted a final briefing wherein PO1 Bagain would be accompanied by one (1) confidential informant to the target place while SPO2 Gomboc and the other police officers would serve as his back-up operatives. It was agreed upon that the pre-arranged signal for the sale of *shabu* would be the removal of the cap of PO1 Bagain. PO3 Cahilig and PO3 Llanderal would rely on SPO2 Gomboc, who would monitor PO1 Bagain for confirmation that he had already bought *shabu* from their suspect @ "*Toto*". The confidential informant warned PO1 Bagain that they had to be careful since the area of their operation was quite dangerous.

On the same day, around 7:15 in the morning, PO1 Bagain and the other confidential informant walked through an alley in Daang Bakal, Justicia St., Marulas, Valenzuela, until they reached a row of houses near the riverside. When PO1 Bagain and the confidential informant passed by the front of a staircase of one of the houses therein, a man (@ "*Toto*") suddenly approached them. The confidential informant immediately talked to the man whom he introduced to PO1 Bagain as Toto. After a short exchange of words, @ "*Toto*" asked PO1 Bagain if they would buy and for how much. PO1 Bagain understood @ "*Toto*" and answered, "Yes", in the amount of Five Hundred Pesos (P 500.00) thereafter giving him the marked buy-bust money which he brought with him. While the right hand of @ "*Toto*" received the buy-bust money handed by PO1 Bagain, his left hand reached inside the left front pocket of his pants. PO1 Bagain saw that there were two (2) pieces of heat-sealed transparent plastic sachets inside the left front pocket of alias Toto's pants. PO1 Bagain noticed that one sachet was still full, while the other one was already half-empty. He also noticed a One Thousand Peso (P 1,000.00) bill from @ Toto's pocket. Using his left hand, @ "*Toto*" handed to PO1 Bagain the transparent plastic sachet which was already half-empty while telling him that if they like, they could use the lower portion of the house for their "*session*" for a fee of Twenty Pesos (P 20.00) after the two drug users occupying the same were done.

As @ "*Toto*" went down the stairs, PO1 Bagain looked at the "*silong*" lower ground of the house and indeed he found two persons inside with drug paraphernalia. PO1 Bagain placed inside the pocket of his pants the *shabu* that he just bought from the former and looked for SPO2 Gomboc within the vicinity.

SPO2 Gomboc was just waiting beside the target house where he hid himself while observing the buy-bust operations between PO1 Bagain and the drug suspect. Upon seeing SPO2 Gomboc, PO1 Bagain immediately removed his cap to signify that the sale of *shabu* had been consummated. PO1 Bagain then introduced himself to @ "*Toto*" as a police officer and arrested him. SPO2 Gomboc approached PO1 Bagain to assist him and then handcuffed @ "*Toto*". PO1 Bagain showed to SPO2 Gomboc the *shabu* sold by @ "*Toto*" after which he confiscated from the right hand of @ "*Toto*" the buy-bust money. PO1 Bagain also frisked the body of @ "*Toto*" and recovered from him the other transparent plastic sachet which he saw earlier inside his pants' pocket. After a while, the other police officers arrived at the crime scene. PO1 Bagain told his other team members that there were two (2) more men using illegal drugs in the "*silong*" which prompted PO3 Cahilig and PO3 Llanderal to check the place. When PO3 Cahilig and PO3 Llanderal returned to the place where PO1

Bagain was staying with @ "Toto", whom he had asked to sit down first, they had already arrested the two (2) other drug users pointed to by PO1 Bagain and had also confiscated the drug paraphernalia from the other drug user, later identified as Pablo Heredia. PO1 Bagain informed @ "Toto" of the reason for his arrest (sale and possession of illegal drugs) as well as his constitutional rights. PO1 Bagain placed his markings on the confiscated evidence. On the other hand, PO3 Llanderal also marked the other pieces of evidence seized from the other drug users and thereafter took pictures of all the evidence they confiscated as well as the buy-bust money.

Before the police operatives could conduct an inventory of the seized items, a commotion occurred prompting them to proceed instead to their police station at Langaray St., Dagat-Dagatan, Caloocan, Metro Manila. Upon arrival at the police station, PO1 Bagain and PO3 Llanderal immediately turned-over to the duty investigator, PO3 Ariosto B. Rana, the recovered pieces of evidence, buy-bust money and the persons they arrested whose real identities were later revealed as follows: 1) @ "Toto" whose real name was Abelardo Valle y Palanan (herein appellant); 2) Pablo Heredia y Escanilla; and 3) Jerald Sajucom y Solis.^[12]

Subsequently, an inventory^[13] was conducted in the presence of Ka Maeng Santos, a representative from the media (CAMANAVA PRESS) and pictures^[14] of the three (3) arrested persons were taken. Thereafter, all the arrested individuals were brought to the Philippine National Police–Crime Laboratory Office (PNP-CLO) in Camp Crame, Quezon City for the purpose of drug testing.

In order to have basis for filing the appropriate charges against the three (3) accused, PC/Insp. Arnold Thomas C. Ibay sent two (2) letters^[15] similarly dated 20 November 2010 to the PNP-CLO in Camp Crame, Quezon City, respectively, requesting laboratory examination of the confiscated drug specimen in order to determine the presence of dangerous drugs, as well as drug testing of the three (3) arrested individuals: appellant Del Valle @ Toto, Heredia and Sajucom , to determine if they had used drugs.

On 21 November 2010, PCI Rodis, Forensic Chemist in PNP-CLO, issued Chemistry Report No. D-122-10 containing the following findings:

"SPECIMEN SUBMITTED:

Two (2) heat-sealed transparent plastic sachets each containing white crystalline substance having the following markings and net weights:

A (NAB/ADVP-1-11-20-10) – 0.07 gram

B (HAB/ADVP-2-11-20-10) – 0.03 gram

C- one (1) unsealed transparent plastic sachet with markings "RML/PHE-1-11-20-10" containing traces of white crystalline substance.

Three (3) folded aluminum foil strips with markings "RML/PHE-2-11-20-10", "RML/PHE-3-11-20-10" and "RML/PHE-4-11-10-10" marked as D, E and F, respectively.

Three (3) rolled aluminum foil strips with markings "RML/PHE-5-11-20-10", "RML/PHE-6-11-20-10" and "RML/PHE-9-11-20-10" and "RML/PHE-7-11-20-10", marked as G, H, I, respectively.