

THIRD DIVISION

[G.R. No. 175326, November 28, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDGARDO SANTIAGO Y GATDULA, VICENTE SANTIAGO Y
GATDULA, AND VLADIMIR AMADO Y SANTIAGO, ACCUSED-
APPELLANTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

For review is the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01255 dated 29 March 2006,^[1] affirming with modification the Decision of the Manila Regional Trial Court (RTC), Branch 18, in Criminal Case No. 99-172427 dated 14 May 2001,^[2] finding accused-appellants Edgardo G. Santiago, Vicente G. Santiago, and Vladimir S. Amado guilty of illegal sale of *shabu* under Section 15, Article III of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended by Republic Act No. 7659, and imposing upon them the penalty of death.

Gathered from the records are the following facts:

Appellant Edgardo G. Santiago (Edgardo) is the elder brother of appellant Vicente G. Santiago (Vicente) while appellant Vladimir S. Amado (Vladimir) is the nephew of Edgardo and Vicente.

On 22 April 1999, an Information was filed with the RTC against appellants for illegal sale of *shabu* under Section 15, Article III of Republic Act No. 6425, as amended by Republic Act No. 7659. The accusatory portion of the Information reads:

The undersigned [Asst. City Prosecutor Yvonne G. Corpuz] accuses EDGARDO SANTIAGO Y GATDULA, VICENTE SANTIAGO Y GATDULA and VLADIMIR AMADO Y SANTIAGO of a violation of Section 15, Article III in relation to Section 2 (e), (f), (m), (o) Article I, in relation to Section 21 (b) of Republic Act 6425 as amended by Presidential Decree No. 1683 and as further amended by Republic Act No. 7659, committed as follows:

That on or about April 8, 1999, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping one another, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there willfully, unlawfully and knowingly sell or offer for sale, dispense, deliver, transport or distribute a total of THREE HUNDRED TWELVE POINT TWO GRAMS (312.2 g) of white crystalline substance known as "Shabu" containing methamphetamine hydrochloride, which is a regulated drug.^[3]

When arraigned on 13 May 1999, the appellants, assisted by their respective counsels *de parte*, pleaded "Not Guilty" to the charge.^[4] Subsequently, trial on the merits ensued.

The prosecution presented as witnesses Police Inspector Nolasco Cortez (Inspector Cortez), Chief of Cavite Provincial Narcotics Office and Team Leader of the 4th Regional Narcotics Office Special Operations Group, and his subordinate, SPO1 Joseph Yatco (SPO1 Yatco). Their testimonies, woven together, bear the following:

On 8 April 1999, at around 10:00 in the evening, an informant approached Inspector Cortez at the latter's Narcotics Office in Imus, Cavite, and reported the drug trafficking activities of appellants in Binondo, Manila. Inspector Cortez instructed the informant to contact the appellants and arrange a transaction between him (Inspector Cortez) and the appellants for the purchase of *shabu*. The informant called the appellants and told them that an interested buyer wants to procure from them 300 grams of *shabu* for P300,000.00. Appellants agreed to the transaction. Thereafter, Inspector Cortez formed a team and planned a buy-bust operation. The team agreed that Inspector Cortez would act as the poseur-buyer while SPO1 Yatco, a certain PO3 Wilfredo Luna (PO3 Luna), SPO1 Marcelino Male (SPO1 Male), PO3 Rolando Paternal (PO3 Paternal), PO3 Ben Almojuela (PO3 Almojuela), PO3 Albert Colaler (PO3 Colaler), PO2 Allan Lising (PO2 Lising) and PO1 Aldrin Agravante (PO1 Agravante) would act as back-up during the buy-bust operation. The team also prepared bundles of boodle money appearing to be worth P300,000.00. The monies were marked with the signature of PO3 Paternal.^[5]

On 9 April 1999, at about 6:30 in the morning, the team went to the Manila Western Police District Command (WPDC) and coordinated the planned entrapment of appellants. Afterwards, the team proceeded to the residence of the informant at P. Solano Street, Binondo, Manila, arriving thereat at around 8:45 in the morning.^[6]

Inspector Cortez and the informant waited for appellants at the second floor of the informant's house while SPO1 Yatco and PO3 Luna positioned themselves outside the house. The rest of the team members stayed within the perimeter of the area. Later, Vladimir arrived and met the informant and Inspector Cortez. The informant told Vladimir that Inspector Cortez was the interested buyer of *shabu* he referred to in their previous conversation. Vladimir asked Inspector Cortez to show him the money. Inspector Cortez opened the briefcase he was holding and displayed the boodle money. Vladimir then left the two.^[7]

After a few minutes, Vladimir returned, this time accompanied by Edgardo and Vicente. Edgardo introduced himself as a barangay kagawad and told Inspector Cortez, "*Walang problema sa hulihan dito. Sagot ka namin dito.*" Vicente also uttered, "*Pare dito sa amin maganda ang klase ng aming shabu. Puwede kang bumalik bukas ng hapon o sa kamakalawa para ka makapag-purchase ng another 300 grams of shabu.*" Edgardo then brought out three transparent plastic bags containing *shabu* while Vicente brought out a digital weighing scale. The appellants assisted each other in weighing the three plastics bags of *shabu*. Each of the plastic bags weighed 100 grams. Subsequently, Vladimir handed the three plastic bags of *shabu* to Inspector Cortez, while the latter turned over the briefcase containing the boodle money to the former. Inspector Cortez then wiped his face with a handkerchief as pre-arranged signal to his back-up team. Thereupon, he drew his

service firearm, introduced himself as a narcotics agent, and declared the arrest of appellants. Instead of yielding peacefully, appellants ganged up on Inspector Cortez. Vladimir grappled with Inspector Cortez for the possession of the latter's service firearm while Edgardo and Vicente pushed Inspector Cortez to the wall. At this juncture, SPO1 Yatco and PO3 Luna arrived and subdued the appellants. Thereafter, the rest of the back-up team entered the informant's house and assisted Inspector Cortez, SPO1 Yatco and PO3 Luna. The arresting officers then seized the three plastic bags of *shabu*, the weighing scale, and the briefcase containing the boodle money.^[8]

The three plastic bags of *shabu* recovered from appellants were submitted to the Philippine National Police (PNP) Crime Laboratory in Camp Vicente Lim, Calamba, Laguna, for laboratory examination. PNP Forensic Chemist Lorna Tria (PNP Forensic Chemist Tria) found the contents of the three plastic bags to be positive for *methamphetamine hydrochloride* or *shabu*. Upon being weighed, the three plastic bags were found to be containing 104 grams, 104.43 grams, and 103.77 grams of *shabu*, respectively, or a total of 312.2 grams.^[9]

The prosecution also presented documentary and object evidence to buttress the testimonies of its witnesses, to wit: (1) *PINAGSAMA-SAMANG SINUMPAANG SALAYSAY* of Inspector Cortez, SPO1 Yatco and PO3 Luna dated April 1999;^[10] (2) booking sheet and arrest report of appellants;^[11] (3) request for physical/medical examination of appellants addressed to the 4th Regional Narcotics Office, Camp Vicente Lim, Calamba, Laguna;^[12] (4) findings on the physical examination of appellants;^[13] (5) request for laboratory examination of the three plastic bags of *shabu* seized from the appellants addressed to the Chief of the Forensic/Chemistry Section;^[14] (6) chemistry report signed by PNP Forensic Chemist Tria finding the three plastics bags to be positive for *methamphetamine hydrochloride* or *shabu*;^[15] (7) the three plastic bags of *shabu* examined by PNP Forensic Chemist Tria;^[16] (8) request for physical/medical examination of Inspector Cortez;^[17] (9) the boodle money used in the buy-bust operation and its photocopies;^[18] (10) coordination form prepared by Inspector Cortez and received by a certain PO3 Baarde and PO3 Arasis;^[19] and (11) letter-referral for inquest proceedings of appellants signed by SPO1 Male and addressed to the Office of the City Prosecutor, Manila.^[20]

For its part, the defense proffered the testimonies of the appellants and their corroborating witnesses -- namely, Manuel Quinan (Quinan), Celerino Rubiano (Rubiano), Benjamin Joven (Joven), and Guillermo Miguel Hermoso (Hermoso) -- to refute the foregoing accusations. Their version of the incident is as follows:

On 9 April 1999, at about 8:50 in the morning, Vladimir went to the house of a certain Oscar Colobe (Oscar) at Del Pan, Binondo, Manila, to invite the latter's son named Boy, to play basketball with him. Upon entering the second floor of the house, he saw therein Oscar, the latter's wife, a certain Rey, two men and a lady. Oscar was talking with Rey, the two men and the lady. While waiting for Boy, he saw the two men pull out a gun while Rey ran downstairs. One of the men ran after Rey while the other went to the terrace of the same house and fired his gun. Stunned, he remained motionless. Suddenly, one of the men held his arm and poked a gun at him while the lady held his shoulders. He then shouted to his neighbors, "*Tulungan*

ninyo ako, tawagin nyo ang Kuya Edgar."^[21]

Edgardo and Vicente were having a conversation with their neighbors Quinan, Rubiano, Hermoso, and a certain Rolando Ramirez (Ramirez) and Bayani Antiago (Antiago) in front of Edgardo's house at Bagong Pag-asa, Del Pan, Binondo, Manila, when an unidentified person approached Edgardo and told him, "*Kuya, si Vladimir babarilin ng mama.*"^[22] Edgardo and Vicente immediately proceeded to the house of Oscar and saw Vladimir wrestling with a man, whom they identified as Inspector Cortez, for the possession of a gun. Edgardo introduced himself as a *barangay kagawad* and told Inspector Cortez not to make any trouble in their place and that they could peacefully take Vladimir with them. At this point, several policemen arrived and, per order of Inspector Cortez, handcuffed the appellants. Inspector Cortez and his men then inflicted fist blows and poked their guns at appellants. Thereafter, Inspector Cortez and his men brought the appellants to the 4th Regional Narcotics Office, Camp Vicente Lim, Calamba, Laguna. During their stay in the said office, appellants were beaten and threatened by Inspector Cortez and his men. Subsequently, some neighbors of the appellants approached the arresting officers and affirmed that the appellants were not involved in the illegal sale of *shabu* in their *barangay*.^[23]

In support of the testimonies of its witnesses, the defense adduced as its object and documentary evidence the following: (1) pictures of the house terrace of Oscar;^[24] (2) *PINAGSANIB NA SALUNGAT NA SALAYSAY* of Edgardo and Vicente dated 19 April 1999;^[25] (3) manifestation paper signed by the neighbors of appellants stating that Edgardo and Vicente are of good moral character and had no participation in the alleged illegal sale of *shabu* during the incident;^[26] (4) *KONTRA-SALAYSAY* of Vladimir dated 19 April 1999;^[27] (5) *SALAYSAY* of Joven, Quinan, Rubiano, Hermoso, Ramirez and Antiago;^[28] and (6) manifestation paper dated 15 April 1999 signed by the fellow *barangay kagawads* of Edgardo attesting that the latter is of good moral character and was active in fighting crimes in their place.^[29]

After trial, the RTC rendered a Decision dated 14 May 2001, finding appellants guilty of violating Section 15, Article III of Republic Act No. 6425, as amended by Republic Act No. 7659, and imposing upon them the penalty of death. The dispositive portion of the decision reads:

WHEREFORE, the accused, Edgardo Santiago, Vicente Santiago and Vladimir Amado, are hereby convicted of the crime of Violation of Section 15, Article III in relation to Section 21 of Article IV of R.A. 6425 as amended by R.A. 7659, involving 312.2 grams of shabu with the aggravating circumstance of the offense having been committed by an organized/syndicated crime group, and sentenced to suffer the penalty of death by lethal injection and to pay a fine of P500,000.00 each, plus the costs.

The 312.2 grams of shabu is forfeited in favor of the government and is ordered to be turned over to the Dangerous Drugs Board, for proper disposition.^[30]

Aggrieved, appellants elevated the instant case directly to this Court for review. However, pursuant to our ruling in *People v. Mateo*,^[31] we remanded the case to the Court of Appeals for disposition. On 29 March 2006, the Court of Appeals promulgated its Decision affirming with modification the RTC decision,^[32] thus:

WHEREFORE, the May 14, 2001 Decision of the Regional Trial Court of Manila, Branch 18, in *Criminal Case No. 99-172427*, with respect to the conviction of EDGARDO SANTIAGO Y GATDULA, VICENTE SANTIAGO Y GATDULA and VLADIMIR AMADO Y SANTIAGO is **AFFIRMED** except as to the penalty which shall be **MODIFIED** to reclusion perpetua. The Division Clerk of Court is directed to **CERTIFY** and **ELEVATE** the entire records of this case to the Supreme Court for proper review in accordance with *Section 13 (a), Rule 124 of the Revised Rules of Criminal Procedure, as amended by A.M. No. 00-5-03-SC* dated September 28, 2004.

In their separate Briefs,^[33] appellants assign the following errors:

I.

THE LOWER COURT'S FINDING THAT THE TESTIMONIES OF SPO1 YATCO AND INSPECTOR CORTEZ, THE ONLY WITNESSES OF THE PROSECUTION, WERE "LOGICAL, FORTHRIGHT AND PLAUSIBLE," ARE NOT BASED ON THE EVIDENCE AT ALL. ON THE CONTRARY, THEIR TESTIMONIES ARE REplete WITH MAJOR INCONSISTENCIES, EXAGGERATIONS, CONCOCTIONS, AFTERTHOUGHTS, AND FALSITIES NOT JUSTIFYING A CONVICTION WITH THE PENALTY OF DEATH;

II.

THE LOWER COURT'S FINDING THAT THERE WAS NO ILL-MOTIVE ON THE PART OF THE WITNESSES, ESPECIALLY POLICE OFFICER CORTEZ, IS TOTALLY CONTRARY TO THE EVIDENCE. MOREOVER, THE LOWER COURT FAILED TO APPRECIATE THE RULE THAT, REGARDLESS OF ILL-MOTIVE, IF THE TESTIMONIES OF THE PROSECUTION WITNESSES ARE FLAWED, INCREDIBLE AND FULL OF INCONSISTENCIES, THE SAME WILL NOT BE ENOUGH TO WARRANT CONVICTION;

III.

THE LOWER COURT ERRED IN APPLYING THE PRESUMPTION OF REGULARITY IN THE PERFORMANCE OF A POLICE OFFICER'S DUTY;

IV.

THE LOWER COURT ERRED IN NOT HOLDING IN THIS CASE THAT THE TESTIMONY OF THE CONFIDENTIAL INFORMANT CANNOT BE DISPENSED;

V.

THE LOWER COURT ERRED IN RULING THAT THE DEFENSE OF DENIAL AND ALIBI IS NOT PERSUASIVE AND CREDIBLE. IT LIKEWISE ERRED IN