

FIRST DIVISION

[G.R. No. 148048, January 15, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RADZMA AHMAD Y
ABDULLAH AND AMIN MUSTALI Y AHMAD, APPELLANTS.**

DECISION

AZCUNA, J.:

On appeal is the January 5, 2001 Decision^[1] of the Regional Trial Court of Zamboanga City, Branch 16, convicting herein appellants Radzma Ahmad y Abdullah and Amin Mustali y Ahmad for violation of Section 15, Article III, in relation to Section 21 (b), Article IV, of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended.

The Information,^[2] dated September 25, 1999, charged appellants, as follows:

That on or about September 24, 1999, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, mutually aiding and assisting with one another, not being authorized by law to sell, deliver, transport, distribute or give away to another, did then and there willfully, unlawfully and feloniously sell and deliver to SPO1 AMADO A. MIRASOL, a PNP poseur-buyer, four (4) heat-sealed transparent plastic packs each containing white crystalline substance having a total weight of 212.7191 grams, which when subjected to qualitative examination gave positive result to the test for Methamphetamine Hydrochloride (shabu), knowing [the] same to be a regulated drug.

CONTRARY TO LAW.

When arraigned on October 15, 1999, appellants pleaded not guilty.^[3] Trial thereafter ensued.

On the basis of the testimonies of their witnesses and documentary evidence, the prosecution presented the facts, as follows:

On September 23, 1999, at about 4:30 o'clock in the afternoon, an informant reported to P/Ins. Alfredo Francisco, Team Leader of Task Force Tumba Droga I, Zamboanga City, that a certain Amin, known to be a big-time drug pusher, was looking for prospective buyers for a large quantity of shabu that he wanted to dispose of. Amin was described as a Tausug from Baliwasan Grande, 30-32 years old, 5 feet in height, of slim built and with short hair.

On the strength of this information P/Ins. Francisco instructed SPO1 Amado Aquino Mirasol, to go with the informant to the Galleria Shopping Center located along Gov.

Lim Avenue, Zamboanga City, to locate this pusher and investigate the case. When they found him, he identified himself as Amin Mustali who, upon confirming that he was talking to a buyer, asked him if he had the money. Mirasol informed him that he had P175,000.00 but he did not bring it with him and proceeded to ask for the price of a pack of shabu weighing 50 grams more or less. After some haggling, Amin agreed to a price of P43,000.00 per pack and Mirasol said that he would buy 5 packs. They agreed to meet again the next day, September 24, 1999, at 3:00 o'clock in the afternoon in the same place, at which time Mirasol would bring the money.

Mirasol went back to their office and reported to P/Ins. Francisco on the result of his negotiations with Amin Mustali. The next day, September 24, 1999, they prepared the money for the buy-bust operation and at 1:30 o'clock in the afternoon P/Ins. Francisco conducted a briefing attended by the members of the Task Force Tumba Droga I regarding the buy-bust operation to be conducted at the Galleria Shopping Center and gave the members their respective assignments.

At 2:30 o'clock in the afternoon Mirasol went to the Galleria Shopping Center with a black Nike bag containing P175,000.00. At 3:00 o'clock in the afternoon appellant Amin Mustali arrived and upon verification that Mirasol brought the money, he told Mirasol to come back at 6:00 o'clock that afternoon because he had to check the stuff with his boss.

Mirasol returned to their office at 4:00 o'clock in the afternoon and reported this development to P/Ins. Francisco, who then instructed him to return the P175,000.00 to the Finance Officer and get the amount of P3,300.00 in P100.00 bills. They then prepared four bundles of strips of bond paper cut to money size and they placed their initials on these and on all the P100 bills which they later placed on both sides of the bundles of cut bond paper and then inserted each bundle on Solid Bank bill wrappers. P/Ins. Francisco and Mirasol placed their initials on the Solid Bank wrappers. They put the money and strips of bond paper inside the black Nike bag on which they also placed their initials. At 5:45 o'clock in the afternoon, Mirasol proceeded to the Galleria Shopping Center, and the other members of the Tumba Droga Team followed behind.

At 6:30 o'clock in the evening, Amin Mustali arrived alone and said to Mirasol: "*OK [na] ang Auntie Radzma ko, apat na lowest lang ang kaya ng pera mo.*" He told Mirasol that they would finalize the transaction at the house of his Auntie at Magsanaw Drive, Baliwasan Grande. Mirasol was reluctant to go but when he got instructions to proceed from P/Ins. Francisco who was stationed nearby, he went with appellant Amin while the other members of the team followed at a distance. They arrived at Magsanaw Drive at Baliwasan Grande about 7:15 o'clock in the evening and met Amin's auntie Radzma Ahmad.

After determining that Mirasol was the buyer Radzma introduced herself and asked Mirasol if he had the money with him, to which she got an affirmative answer. Radzma told him to wait and went inside the house. Mirasol lighted a cigarette and when Radzma returned she brought a folded newspaper, saying, "*Nandito na ang stuff,*" as she handed it to Mirasol. Inside the folded newspaper Mirasol found four (4) pieces of big heat-sealed transparent plastic packs containing suspected shabu. After examining the plastic packs and seeing that they contained shabu, Mirasol handed the black Nike bag containing the marked money and strips of bond paper to appellant Amin and threw his lighted cigarette outside the terrace as the signal to

his companions that the transaction was consummated. As appellant Amin was about to open the black Nike bag, SPO1 Eduardo Bernardo, P/Ins. Francisco and P/Sr. Ins. Joseph Arguelles rushed to the terrace and introduced themselves as members of the PNP. Mirasol also introduced himself to Radzma Ahmad as a policeman and arrested her. SPO1 Bernardo arrested Amin Mustali and recovered the black Nike bag containing the buy-bust money and the strips of bond paper cut to money size.

After Mirasol arrested Radzma Ahmad, a man came down from the second floor of the house and introduced himself as the husband of Radzma. He said to P/Ins. Francisco, "*Puede bang pag-usapan lang natin ito?*"

The arrest and the confiscation of four (4) big heat-sealed transparent plastic packs containing suspected shabu wrapped in a Tempo newspaper, as well as the buy-bust money amounting to P3,300 together with four (4) bundles of strips of bond paper placed inside a black Nike bag, were recorded in a Complaint/Assignment Sheet at 8:30 o'clock in the evening of September 24, 1999 at the Zamboanga City Police Office. PO3 Gonzaga placed his initials on the evidence turned over to him and prepared a request for a laboratory examination of the four (4) big heat-sealed transparent plastic packs containing suspected shabu addressed to the PNP Regional Crime Laboratory, which after testing and examination by PNP Forensic Chemist P/Sr. Ins. Delfin Diestro gave positive result of the presence of Methamphetamine Hydrochloride (shabu).^[4]

Denying the alleged buy-bust and claiming to be victims of an illegal raid and police frame-up, appellants present their version of the facts, as follows:

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Radzma Ahmad y Abdullah, 42 years old, is the wife of Hadji Nasir Ahmad. At past 6:00 o'clock in the evening of September 24, 1999, she was at the first floor of their house talking to her friend Edwina Escobar. While she was talking over the phone with Edwina, she heard three shots coming from outside their fence. Then she heard that something bump their fence as if there were persons "*chasing and running*." She told Edwina that she will just call her again.

When she was about to go and verify and before she reached the door, a man in civilian attire poked a gun at her. The man was followed by another male person and a woman who were in civilian attire. All of them were armed with guns. One of them told Radzma to sit down. Another went to the kitchen. The woman with a gun went up to the second floor. She met Hadji Nasir going down the stairs and poked her gun at him. Hadji Nasir was made to sit down on the sofa. Six other persons went inside the house and started searching and scattering things. Amin Mustali, his wife and child were brought down the house. A gun was poked at them. They were told to sit down. The man and woman who brought Amin Mustali, his wife and child went up again. Michelle and his mother, Rosemarie Short, were also brought down, poked with guns and told to sit down in the sala. One of the persons told Radzma, "*I think Mrs. The money is with you.*"

Radzma kept asking what they [were] doing. The persons said they are policemen and that they [were] looking for shabu. Hadji Nasir then called their lawyer Atty. Asterio Solis and talked to him. The policemen continued searching using an emergency light which they borrowed from the Ahmad couple. One of them said in Chavacano: "*Cosa man camo quiere no way man kita encontra el sin, hindi pa kita iiba hente.*" (What do you like, we did not find money and we [are not different people]).

A barangay councilman arrived and asked what happened. One of the policemen said that Nasir, Radzma, Amin, and Calma are under arrest because of shabu. The Barangay Councilman said, "I know them, they are good people."

Radzma, Nasir Amin and Lerio were told to board a jeep. They were taken to the police station. Nasir and Calma were later released. Radzma and Amin were detained.

Amin Mustali y Ahmad, 35 years old, married, a tricycle driver, denied that he was at Galeria Department Store on September 23 and 24, 1999. On both days he was at his uncle's house at Baliwasan Grande. He does not know where Galeria department Store is although he [had] been staying in Zamboaga City for more than a year. His wife was inside the room. [H]is uncle, Hadji Nasir Ahmad, told him to lock the door of the room. A few minutes later, someone kicked the door. When the door was opened, he saw a man pointing a gun at him, telling him to go down. He gave his child to his wife and went down followed by his wife and the policeman who kicked the door. When he reached downstairs, he saw his uncle Nasir and his Auntie Radzma sitting down on the sofa. There were about 6 to 8 persons with firearms searching inside the house, the kitchen and the comfort room. They searched for about one hour. Later, Amin, his Auntie and Uncle Nasir, and Calma Lerio were taken to the police station.^[5]

Giving more credence to the testimonies of the prosecution witnesses, the trial court convicted appellants of the crime charged. It rejected appellants' denial and upheld the positive testimonies of the police officers, whom it deemed to have regularly performed their duties given the lack of proof that they were actuated by any ill motive. The dispositive portion of the decision reads, as follows:

WHEREFORE, the Court finds both accused RADZMA AHMAD y ABDULLAH and AMIN MUSTALI y AHMAD GUILTY BEYOND REASONABLE DOUBT of the crime of Violation of Section 15, Article III in relation to Section 21 (b), Article IV of Republic Act No. 6425, otherwise known as The Dangerous Drugs Act of 1972, as amended, and SENTENCES each of said accused to suffer the penalty of RECLUSION PERPETUA and its accessory penalties, to pay a fine of FIVE HUNDRED THOUSAND (P500,000.00) PESOS each, and to pay the costs.

The 212.7191 grams of methamphetamine hydrochloride or shabu (*Exhs. "B-1"; "B-2"; "B-3"; "B-4"*) are ordered to be turned over under receipt to Dangerous Drugs Board thru the National Bureau of Investigation (NBI) in Zamboanga City, upon finality of this decision, for disposition in

accordance with law.

The buy-bust money in the total amount of P3,300.00 should be returned to Task Force Tumba Droga Team I, Zamboanga City Police Office, after the finality of the decision.

GIVEN this 5th day of January, 2001, Zamboanga City, Philippines.^[6]

In view of the imposition of the penalty of *reclusion perpetua*, appellants interposed this direct appeal, raising the following issues:

I. THE LOWER COURT ERRED IN GIVING WEIGHT TO THE PROSECUTION'S EVIDENCE BY ADOPTING ITS VERSION RATHER THAN THAT OF THE ACCUSED'S.

II. THE LOWER COURT ERRED IN HOLDING THAT THE TOTALITY OF THE EVIDENCE FOR THE PROSECUTION IS SUFFICIENT TO CONVICT THE ACCUSED OF THE CRIME OF VIOLATION OF SECTION 15, ARTICLE III, IN RELATION TO SECTION 21 (b), ARTICLE IV OF REPUBLIC ACT NO. 6425, AS AMENDED.^[7]

Essentially, appellants are questioning the court *a quo*'s finding of sufficiency of the prosecution's evidence and its disregard of the version of the defense.

The appeal has no merit.

At the outset, it should be pointed out that prosecutions involving illegal drugs largely depend on the credibility of the police officers who conducted the buy-bust operation. Considering that this Court has access only to the cold and impersonal records of the proceedings,^[8] it generally relies upon the assessment of the trial court, which had the distinct advantage of observing the conduct or demeanor of the witnesses during trial. Hence, factual findings of the trial court are accorded respect absent any showing that certain facts of weight and substance bearing on the elements of the crime have been overlooked, misapprehended or misapplied.^[9]

Time and again, this Court has ruled that a buy-bust operation is "a form of entrapment which has been accepted to be a valid means of arresting violators of the Dangerous Drugs Law."^[10] The elements necessary for the prosecution of the illegal sale of drugs are, as follows: (a) the identity of the buyer and the seller, the object and the consideration; and (b) the delivery of the thing sold and payment therefor.^[11] The straightforward testimonies of the principal witnesses for the prosecution clearly established these elements. The material portions of the poseur-buyer's testimony, which were amply corroborated by the other members of the buy-bust team, are quoted, as follows:

Q: What else transpired there during the encounter in your office, in that evening of September 23, 1999?

A: After our Informant gave that information to our Chief [and] the physical description of the suspect "Amin," we planned for the activities in casing the drug pusher. [O]ur Unit Chief instructed me to go with the informant and