

FIRST DIVISION

[G.R. No. 131773, February 13, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANABEL VILLANUEVA Y DINACA A.K.A. MARIVIC BAYLON Y
VELARDE, MALOU VASQUEZ Y SANTOS AND LUZVIMINDA
SANTOS Y REA, ACCUSED-APPELLANTS.**

DECISION

YNARES-SANTIAGO, J.:

On appeal is the decision of the Regional Trial Court of Pasay City, Branch 109, in Criminal Case No. 97-9779, promulgated on November 12, 1997, finding accused-appellants guilty beyond reasonable doubt of violation of Section 15,^[1] Article III, of the Dangerous Drugs Act of 1972 (Republic Act 6425), as amended by Republic Act 7659, sentencing them to suffer the penalty of *reclusion perpetua* and ordering them to pay a fine of P500,000.00 each. The dispositive portion of the decision reads:

IN VIEW OF ALL THE FOREGOING, the court hereby finds all accused namely Anabel Villanueva y Dinaca aka Marivic Baylon y Velarde, Luzviminda Santos y Rea and Malou Vasquez y Santos guilty beyond reasonable doubt for violation of Section 15, Art. III of RA 6425 as amended by RA 7659. The subject buy bust being 474.4 grams of methamphetamine hydrochloride hereby sentences them to Reclusion Perpetua or forty (40) Years imprisonment and to pay a fine of P500,000.00 each.

The methamphetamine hydrochloride is hereby forfeited in favor of the government and the OIC of this court is hereby directed to transmit the same to the National Bureau of Investigation and/or Dangerous Drugs Board for proper disposition.^[2]

Accused-appellants were charged under the following amended information:

That at or about 6:00 o'clock in the morning of February 4, 1997 at No. 1754 Tripia de Galina,^[3] Pasay City, and within the jurisdiction of this Honorable Court, the above-named accused grouping [themselves] together conspiring, confederating and mutually helping one another, did then and there, wilfully, unlawfully and feloniously transport, sell and deliver, to a buyer without authority of law approximately FOUR HUNDRED SEVENTY-FOUR POINT FOUR (474.4) grams of methamphetamine hydrochloride popularly known as "shabu", a regulated drug.

CONTRARY TO LAW.^[4]

When accused-appellants were arrested, one of them gave the name Anabel Villanueva. In the course of the proceedings, however, her counsel requested that her name be changed to Marivic Baylon y Velarde, allegedly her real name. The trial court ordered that both names of accused-appellant be included.^[5]

Upon arraignment on March 12, 1997, all the accused-appellants, assisted by their respective counsels, pleaded not guilty to the charge.^[6]

The facts as presented by the prosecution are summarized by the Solicitor General in its Consolidated Brief for the Appellee, to wit:

Receiving report from their informant about the drug trafficking activities of appellant Anabel Villanueva in Tramo Street, Pasay City, the NBI on February 1-3, 1997 conducted surveillance operations in the area (p. 3, TSN, March 17, 1997). In said surveillance operations, intelligence Agent Martin Soriano came to know appellants Luzviminda Santos and Malou Vasquez (mother and daughter) who negotiated for the sale of methamphetamine hydrochloride (shabu) (p. 4, TSN, March 17, 1997).

During the negotiations, agent Soriano was informed of the mode of payment, and the time and place of the delivery (*Id.*). Agent Soriano asked appellants Luzviminda and Malou if he could purchase one (1) kilo of shabu from appellant Anabel Villanueva and she replied "no problem as long as you have the money with you" (p. 8, TSN, March 17, 1997). On February 2, 1997, negotiations started at about 11:00 o'clock P.M. until 2:00 to 3:00 o'clock A.M. the next day. Since appellants Luzviminda and Malou insisted on counting the money first, agent Soriano decided to purchase one-half (1/2) kilo of shabu for he had only two-hundred fifty thousand pesos (P250,000.00) with him (pp. 8 and 9, TSN, March 17, 1997). Appellants Luzviminda and Malou wanted to take the money first from agent Soriano after which they will get the shabu but agent Soriano did not agree for fear that he will not be able to recover the money (pp. 9 & 10, TSN, March 17, 1997).

Agent Soriano was told to come back on February 3, 1997 about 6:00 A.M. at the house of appellants Luzviminda and Malou at 7659 Tramo Street, Pasay City, which the former did (p. 10, *Id.*; p. 11, TSN, March 12, 1997).

Appellants Luzviminda and Malou still insisted that appellant Anabel Villanueva will not give the "shabu" to them unless he give them first the money. To win them, agent Soriano countered that he will give appellants Luzviminda and Malou Fifty Thousand Pesos as their bonus or commission money and made the promise that he will make a repeat order of two (2) kilos every week. Agent Soriano then handed to them Two Thousand Pesos (P2,000.00) as advance to convince appellant Anabel Villanueva of a cash on delivery (COD) transaction (pp. 10, 11, 15 and 16, TSN, March 17, 1997).

Forthwith, at about 8:00 A.M., after handling over to them said advance commission, agent Soriano left (p.13, March 17, 1997). At about midnight of the same day, agent Soriano together with his informant

came back to the house of appellants Luzviminda and Malou to confirm the delivery (pp. 14 and 17, *Ibid.*). Luzviminda and Malou still insisted to agent Soriano that the latter give them the money.

Tired of haggling with them, agent Soriano told them in the vernacular, "Sige na ako na ang bahala sa inyo. Tulungan lang ninyo akong matapos na ang transaction ito. Kasi pagod na ako. Heto na ang P50,000.00 na ibibigay ko sa inyo bilang commission ninyo. Pilitin ninyo si Anabel na pumayag ng kaliwaan." (pp. 16 & 17, TSN, March 17, 1997). To which appellants Luzviminda and Malou replied, "Sige bumalik ka ng alas 5:00 dalhin mo na ang pera pati ang commission namin." (p. 17, *Id.*).

At 5:00 o'clock A.M., February 4, 1997, agent Soriano together with his informant came back to the house of appellants Luzviminda and Malou as agreed upon while other members of the buy-bust team posted themselves outside in the vicinity (p. 12, TSN, March 12, 1997). The house is a two-storey apartment (p. 13, *Ibid.*). Agent Soriano and informant were made to wait in the sala at the second floor of the apartment in the presence of appellants Luzviminda and Malou (*Id.*; pp. 22 & 23, TSN, March 17, 1997).

By and by, appellant Anabel Villanueva came out from one of the rooms holding one big Tide carton box (p. 24, TSN, March 17, 1997). Appellant Anabel Villanueva walked towards them and said, "Kumusta ka, saan mo sinisistema ito," and handed over the Tide carton box to appellant Luzviminda (pp. 24-26, *Ibid.*). Appellant Luzviminda handed over the Tide carton box to agent Soriano and the latter opened the box; he saw one big plastic containing white crystalline substance (p. 14, TSN, March 12, 1997). Agent Soriano then handed over to appellant Luzviminda two (2) bundles of money worth One Hundred Twenty Five Thousand Pesos (P125,000.00) each. Appellants Anabel Villanueva, Luzviminda and Malou counted the money segregating it to Ten Thousand Pesos (P10,000.00) per bundle (p. 15, TSN, March 12, 1997; pp. 26 & 27, TSN, March 17, 1997).

Agent Soriano forthwith pressed the button of his transmitter attached and hidden at his chest alerting the other members of the buy-bust team who immediately ran up to the stairs (*Id.*). Appellants did not finish counting the money when Agent Soriano flashed his identification card, pulled out his gun, announced that he is an NBI agent and effected the arrest on the appellants (p. 28, TSN, March 17, 1997). Agent Soriano and the other members of the buy-bust team handcuffed the appellants, retrieved the buy-bust money and brought appellants to their office at the NBI (p. 16, TSN, March 12, 1997).

The result of the examination conducted by the NBI Forensic Division on the contents of the plastic bag found inside the Tide carton box revealed that the white crystalline granules/substance weighing 474.4 grams is indeed methamphetamine hydrochloride or "shabu" (p. 16, TSN, March 12, 1997).

Appellants were likewise fingerprinted and their hands examined for the

presence of fluorescent powder. The results revealed that appellants' hands were positive of fluorescent powder specks and smudges (pp. 6, 7, 20, 21, and 22, TSN, March 5, 1997).^[7]

The version of the defense, as testified^[8] to by accused-appellant Anabel Villanueva, is as follows:

At about 7:00 a.m. of February 4, 1997, accused-appellant Malou Vasquez went to the house of accused-appellant Anabel Villanueva to inquire if she knows a supplier of shabu. Villanueva said no, and Vasquez left. At about 8:00 a.m. of the same day, Vasquez came back together with accused-appellant Santos and another woman. Asked if she knew anybody who sells shabu, Villanueva answered no. After the three left, she hurried to get food for breakfast, and on her way to the carinderia she met her husband who gave her a casserole of food. Her husband went back to the carinderia while she headed home. On her way, she heard somebody saying, "She is the one." She turned around and saw the woman who was with accused-appellants Santos and Vasquez earlier that morning. Suddenly, two men grabbed her and hit her stomach with a gun. She later identified one of them as Agent Palencia. They pushed her toward Tramo street, asking her where her house is. At that point, Agent Soriano arrived. He forthwith got a key from accused-appellant Villanueva and tried to open the door opposite her house. He tried to use said key on three doors before he was finally able to open the house of accused-appellant Villanueva, saying, "*Dito, dito ang bahay.*" Inside the house, Agent Palencia held Villanueva's hands while the other man pointed a gun at her back. The NBI agents commenced the search on the first floor, and thereafter, on the second floor of the house. According to accused-appellant, she was on the first floor, while her children, who were crying, were outside the house. No search warrant was shown to her. Present during the search were SPO3 Jimenez and Barangay Chairman Alfredo Rillo, but accused-appellant had no occasion to talk to them. After the search, which yielded no illegal drugs, Agent Soriano asked her if she knew anybody who had shabu, but she replied that she knew no one as she does not usually go out of her house.

Agent Palencia then brought her outside the house and boarded her on a vehicle where she found accused-appellants Vasquez and Santos. Accused-appellant Villanueva said that the traces of fluorescent powder in her hands must have been from the man who held her hands at the NBI office.

The events that led to the arrest of accused-appellant Villanueva were narrated by defense witness SPO3 Reynaldo Jimenez in this wise:^[9]

At about 8:00 o'clock to 8:30 o'clock in the morning of February 4, 1997, while he was in his residence at 313 Manabat Street, Barangay 42, Dominga, Pasay City, someone asked him to check on a situation on Tramo Street, Barangay 43, Pasay City. He drove his owner-type jeep to Tramo street. There he saw two men trying to restrain accused-appellant Villanueva. One of the two men, who was later identified as Agent Pio Palencia, was poking a gun at Villanueva, and SPO3 Jimenez introduced himself to Agent Palencia, and he was informed that the men were conducting a follow-up drug operations. Agent Palencia further told him, "*Kung pulis ka mas maiging kausapin mo ang team leader namin.*" Agent Palencia was referring to Agent Martin Soriano, who was then standing ten to fifteen meters away from

accused-appellant Villanueva. SPO3 Jimenez introduced himself and showed his ID to Agent Soriano, who in turn presented his NBI ID to Jimenez. Agent Soriano agreed to the suggestion of SPO3 Jimenez to summon the barangay captain. Thus, SPO3 Jimenez asked a barangay councilman to get the barangay captain.

From Tramo Street, Agent Palencia and his companion forced accused-appellant Villanueva to lead them to an alley two to three meters wide, and asked her, "*Itong bahay mo? Itong bahay mo?*" They reached the house of accused-appellant and entered the same. SPO3 Jimenez and Agent Soriano were left on the corner of Tramo Street, fifteen to twenty meters away. When Barangay Captain Alfredo Rillo arrived, he introduced himself to Agent Soriano and asked him what the incident was all about. Agent Soriano replied that they are conducting a follow-up operation. Thereafter, Agent Soriano, SPO3 Jimenez and Barangay Captain Rillo proceeded to the house of accused-appellant Villanueva.

On the ground floor, Agent Palencia held accused-appellant Villanueva, while two men whose names were not known to SPO3 Jimenez searched the house. The search of the ground floor proved futile, so one of the NBI agents proceeded to the second floor and forcibly opened the door. Agent Soriano, SPO3 Jimenez, and Barangay Captain Rillo followed upstairs. Again, the NBI agents found no illegal drugs. Before the team left, Agent Soriano told SPO3 Jimenez, "*Pare, tulungan mo na lang ito and informed (sic) his (sic) family na dadalhin namin sa headquarters ito, for further investigation.*" According to SPO3 Palencia, he did not see accused-appellants Luzviminda Santos and Malou Vasquez during the arrest of accused-appellant Villanueva.

Culled from the testimony of defense witness, Barangay Captain Alfredo Rillo, are the following facts:^[10]

Barangay Captain Alfredo Rillo went to Tramo Street, Pasay City acting on information from Barangay Councilman Geronimo Morales of a commotion and arrest incident. When he got there, he saw SPO3 Jimenez and four NBI agents. One of them was identified by Barangay Captain Rillo as Agent Soriano. Barangay Captain Rillo observed that the first floor of the house was searched first by the NBI team. Finding no illegal drugs therein, two NBI agents continued the search upstairs. Barangay Captain Rillo and SPO3 Jimenez followed, while accused-appellant Villanueva was left on the first floor. After the NBI agents found no illegal drugs in the house of accused-appellant Villanueva, they took her with them for further investigation. During the search conducted by the NBI team, Barangay Captain Rillo did not see accused-appellants Vasquez and Santos.

From the testimonies of accused-appellants Luzviminda Santos^[11] and Malou Vasquez,^[12] it appears that: at around 3:00 a.m. of February 4, 1997, a man who pretended to be a drug dealer, later identified to be Agent Soriano, together with a certain Karla, accompanied by two other male persons, went to the house of accused-appellant Luzviminda Santos at 1754 Tripa Galina, Tramo, Pasay City, and told the latter that a reward of P50,000.00 would be given to her if she could find a supplier of shabu. Enticed by the reward, accused-appellant Vasquez, daughter of accused-appellant Santos, went to accused-appellant Villanueva at 1738 Tramo Pasay City, and asked her if she knows a supplier of shabu, to which Villanueva replied in the negative. At around 7:00 a.m. of the same day, Karla, and the two