

## SECOND DIVISION

[ G.R. NO. 171397, September 27, 2006 ]

### PEOPLE OF THE PHILIPPINES, APPELLEE, VS. VICENTE SY Y MADLANGBAYAN, ACCUSED-APPELLANT. D E C I S I O N

**GARCIA, J.:**

Earlier referred by this Court to the Court of Appeals (CA) pursuant to *People v. Mateo*<sup>[1]</sup> is this appeal by the herein accused-appellant Vicente Sy y Madlangbayan from the decision dated November 26, 1999 of the Regional Trial Court (RTC) of Pasay City, Branch 110, in its Criminal Case No. 98-1724, finding him guilty beyond reasonable doubt of violation of Section 15, Article III, in relation to Section 20, Article IV, of Republic Act No. 642

5, as amended, otherwise known as the "Dangerous Drugs Act of 1972," and sentencing him to *reclusion perpetua* and to pay a fine of P5,000,000.00 plus the costs of suit.

The case traces its formal beginning from an Information<sup>[2]</sup> filed with the RTC of Pasay City and thereat docketed as Criminal Case No. 98-1724, charging the herein accused-appellant of illegal sale and delivery of *Methamphetamine Hydrochloride (shabu)*, allegedly committed, as follows:

That on or about the 17th day of December 1998, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Vicente Sy y Madlangbayan, did then and there willfully, unlawfully and feloniously sell and deliver to another 209.3 grams of Methamphetamine Hydrochloride (shabu), a regulated drug.

Contrary to law.

Arraigned with assistance of counsel, accused-appellant entered a plea of "Not Guilty." In the ensuing trial, the prosecution presented in evidence the oral testimonies of Forensic Chemist Police Senior Inspector Julita de Villa, and the members of the Anti Organized Crime Unit, namely: SPO1 Johnny Galis, PO3 Delfin Macario and PO3 Reynaldo Aguba, plus the documents identified by them in the course of their respective testimonies.

For its part, the defense offered in evidence the testimonies of the accused himself and those of his witnesses, Francisco Colima and Joaquin Nuestro.

In its decision<sup>[3]</sup> of November 26, 1999, the trial court found the accused guilty beyond reasonable doubt of the offense charged and sentenced him to *reclusion perpetua*, thus:

WHEREFORE, the Court finds the accused VICENTE SY y MADLANGBAYAN, guilty beyond reasonable doubt of the crime of violation of Section 15, Article III in relation to Section 20, Article IV of

the Republic Act 6425, as amended, and hereby imposes on the said Accused the penalty of RECLUSION PERPETUA and to pay a fine in the amount of P5,000,000.00 and the costs of the proceedings.

The Methamphetamine Hydrochloride or shabu weighing 209.3 grams (Exhibit "B-1") is hereby confiscated in favor of the government. The Branch Clerk of Court, Atty. Eva C. Portugal-Atienza, is hereby directed to cause the delivery and transportation thereof to the Dangerous Drugs Board for proper disposition in accordance with law.

The period during which the herein accused was under detention during the pendency of the case shall be credited to him in full provided that he agreed in writing to strictly abide by the rules and regulations of the City Jail.

SO ORDERED.

Pursuant to a *Notice of Appeal*<sup>[4]</sup> filed by the accused, the trial court forwarded the records of the case directly to this Court. In a Resolution<sup>[5]</sup> dated June 28, 2000, the Court resolved to accept the appeal, the respective briefs for the appellant<sup>[6]</sup> and the appellee<sup>[7]</sup> as well as the appellant's reply brief.<sup>[8]</sup>

Thereafter, in a Resolution<sup>[9]</sup> dated September 6, 2004, the Court, pursuant to its ruling in *People v. Mateo*,<sup>[10]</sup> transferred the case to the CA *for appropriate action and disposition*, whereat it was docketed as CA-G.R. CR No. 00923.

In a decision<sup>[11]</sup> dated October 19, 2005, the CA affirmed in toto that of the trial court. With the CA's denial of appellant's motion for reconsideration in its Resolution<sup>[12]</sup> of January 4, 2006, the case is now again with this Court following the CA's giving of due course<sup>[13]</sup> to appellant's *Notice of Appeal* from its affirmatory decision.

In a manifestation<sup>[14]</sup> dated June 8, 2006, the Office of the Solicitor General informed the Court that appellee People of the Philippines is no longer filing a supplemental brief and merely reiterated its appellee's brief before the CA. No similar manifestation was filed by the appellant. The Court, therefore, assumes appellant to have similarly reiterated his brief before the appellate court.

The People's version of the incident as summarized by the CA in the decision now on appeal is as follows:

She was then tasked to strike a deal with the latter while Captain Pion formed a surveillance team headed by SPO3 Rey Millare to check the accuracy of the lady informant's story as well as to gather additional intelligence on Sy by asking other assets in the places that Sy frequented. The team split in two. One went to Heritage and Hyatt Hotels, while the other proceeded to Alabang, Caloocan and Quezon City.

On 16 December 1998, the lady informant got in touch with PO3 Macario and told the latter that she had struck a deal with Sy to buy Shabu worth

PhP150,000.00. She then went to the AOCU office that evening. Simultaneously, the buy-bust team was formed with PO3 Macario as the designated poseur buyer. The "boodle" money (paper cut to the size of money bills) was prepared in three bundles sandwiched with PhP500 bills marked with the initials of PO3 Macario, "DM". The bills were photocopied before placing the same at the end of each of the bundles and securing them with "PCIBank" bonding strips. The serial numbers of the six (6) PhP500 bills were then recorded in the AOCU logbook. At around 11:30 pm, and from the AOCU office, the lady informant tried to call Sy on the latter's cell phone but unfortunately it was unattended. At around 1:00 am of 17 December 1998, the lady informant finally got in touch with Sy and told him that "I already have the money, we will go there." With that call, the buy-bust team found out when and where the drug deal was to be made. They were to proceed to Room 1101 of the Trader's Hotel. At around 2:30 am, PO3 Macario and PO1 Galis together with the lady informant took a taxi to go to the Trader's Hotel while the rest of the team rode the jeep of PO3 Aguba. Upon reaching the Hotel at around 3:00 am, they proceeded to the lobby to wait for SPO3 Millare's signal (a nod) who was supposed to inform the Hotel Security of their operation at Rm. 1101. When SPO3 Millare gave his nod, the three went to the elevator and proceeded to Rm. 1101 where they were let in by Peter Sy, who later turned out to be herein accused-appellant Vicente Sy.

In the room, Sy led them to the bedroom and offered PO1 Galis and PO3 Macario a seat while the lady informant approached Sy and talked with him. The latter acceded and handed over the envelope containing the "boodle" money. Sy opened the envelope took a look at the bundles and closed it again. Sy then proceeded to a nearby drawer, placed the envelope with money in the drawer, took out a transparent plastic containing white crystalline substance and handed it over to PO3 Macario. Immediately thereafter, PO1 Galis, announced that they were police officers and PO3 Macario took hold of Sy's hand. Galis went to the drawer which was still open and recovered another plastic package as well as the "boodle" money. Meanwhile, the lady informant opened the door of Rm. 1101 and signaled the rest of the team to come in.

The white crystalline substance contained in the heat sealed transparent plastic package that Sy handed over to PO3 Macario during the buy-bust operation was forwarded to Police Senior Inspector Julita T. De Villa, the Forensic Chemist of the PNP Crime Laboratory at the Southern Police District. According to Ms. De Villa, the contents had an aggregate weight of 209.3 grams. Samples of the white crystalline substance were taken using the *quarterly method* or by spreading it flat on a surface and dividing the same into four and then getting samples from each quarter. The samples were then subjected to a *qualitative examination*, which included physical, chemical and chromatographic examinations. The result of the *qualitative examination* proved positive for methamphetamine hydrochloride.

The same decision likewise summarizes the defense's account of the incident, to wit:

In his testimony, accused-appellant Henry Sy professed that he was a trader of "housewares, furniture, chairs kitchen wares, wall clocks, alarm clocks and rubber shoes". He likewise conceded that he also goes by the name Peter Sy. For his defense, Sy presented a different story. He denied having been inside Rm. 1101 of the Trader's Hotel on the 16th to the 17th of December 1998. Instead he claimed to be in his house in Quezon City with his mother before midnight of 16 December 1998. At around 11:00 p.m., he received a message on his pager from a certain Teresa, who occasionally introduced girls to him. By 11:30 p.m., he then asked permission from his mother and "kinakapatid" to leave the house to meet Teresa at the lobby of the Trader's Hotel. He rode his blue Toyota Hi-Lux driven by his driver Roger. They arrived at the Hotel at around 12:00mn to 12:30am. Right after alighting from his Hi-lux, two men approached him and stood on each side. The one on his right allegedly poked something at his side. The two men asked him if he was Mr. Sy and told him that they wanted to talk to him in a restaurant. When appellant refused, they tried to force him towards a parked jeep. Shortly, his Hi-lux arrived, one of the men opened the door and all three boarded the vehicle. The Hi-lux was no longer driven by his driver but by another person. They then drove around while the two men asked him if he had any shabu and that if he knew any big time dealers of shabu. Eventually, Sy was brought to Fort Bonifacio. He also added that it was only on 18 December 1998, or the day after his arrest, that he first saw the shabu subject of this case. That same day, he was asked by the policemen who accosted him to shell out PhP1,000,000.00 in order not to file criminal charges against him.

Sy likewise revealed that he gave the aggregate amount of more than PhP1,000,000.00 to his former counsel, Atty. Balisado because the latter allegedly represented to Sy that he had talked to both the fiscal and the judge and that Sy will be released within two to three days. When Sy was not released, Atty. Balisado explained to him that they need to change the Judge who was hearing his case because he is "hard to talk to" and "strict".

The defense presented two or more witnesses. the first was Francisco Padon Colima, the Security Officer of the Trader's Hotel who was then on duty. The second was Joaquin Nuestro, a cigarette vendor who allegedly saw Sy alighting from his Hi-lux in the early morning of 17 December 1998. For his part, Colima confirmed that a certain SPO3 Millare went to the Monitoring Room of the Hotel at 3:23am on December 17 but denied ever seeing accused or any lady who may have been with group of Millare when they went to Rm. 1101. SPO3 Millare allegedly told him, "Kanina pa kami dito brod, may kuwarto na kami." With that, he assumed that Millare's group was billeted there. Later that day, when he checked with the front desk, he found out that Rm. 1101 was registered to a certain Loiue Chua. Still according to him, the security tape for that day was already erased because they usually do so after 6 days and there is nothing unusual that happened. As regards Nuestro, he testified that he is familiar with Sy because the latter used to frequent the Imperial Health Club along Makati Avenue where he sells cigarettes. Nuestro claimed to be in the Manila area selling cigarettes from 6:00am