

FIRST DIVISION

[G.R. No. 148822, July 12, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SAMROD PENDATUN Y KASAN, RICHARD NUÑEZ Y SANITA, CANAPI AMBALGAN Y BAGUNDONG ALIAS "PIA", NOEL LANTIKAN Y PEREGRINA, JOVEN CASEM Y MENKO ALIAS "SARIP", SARAH PENDATUN Y PANDIAN AND TARHATA "TATA" SALMORE Y WATAMA ALIAS "THATA", APPELLANTS.

DECISION

YNARES-SANTIAGO, J.:

On appeal is the assailed decision of the Regional Trial Court of San Pedro, Laguna, Branch 31^[1] finding appellants Samrod Pendatun y Kasan, Richard Nuñez y Sanita, Canapi Ambalgan y Bagundong alias "Pia", Noel Lantikan y Peregrina, Joven Casem y Menko alias "Sarip", Sarah Pendatun y Pandian and Tarhata Salmore y Watama alias "Tata", guilty beyond reasonable doubt of the crime of selling 982.1 grams of shabu, a regulated drug, sentencing them to suffer the penalty of *reclusion perpetua*, and ordering them to pay a fine of P500,000.00 and costs.

Appellants were charged with violation of Section 15, Article III in relation to Section 21 (b), Article IV of RA 6425, as amended, in an Information which reads:^[2]

That on or about May 25, 1999, in the Municipality of San Pedro, Province of Laguna Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without license or legal authority, conspiring, confederating and mutually helping one another did then and there willfully, unlawfully and feloniously sell, pass and distribute to PNP member/poseur buyer methamphetamine hydrochloride (shabu) a regulated drug weighing 982.1 grams contained in a self-sealing transparent plastic bag which was placed in an orange plastic bag with mark "Emporia Department Store", in exchange for six (6) pieces of Five Hundred Pesos (P500.00) Bills marked money separately placed on top of several pieces of bond paper used as "boodle" money.

Contrary to law.

On May 25, 1999 at around 9:00 in the morning, a confidential agent went to the office of Police Senior Inspector Romualdo Iglesia, Chief of the Service Support Office of the PNP Narcotics Group at Camp Crame, Quezon City, to relay an information about a group of Muslim drug traffickers operating in Metro Manila and nearby provinces. It was determined that the drug deal would take place in San Pedro, Laguna at around 4:00 to 5:00 in the afternoon of that day. Police Senior Officer Iglesia then designated the team that would conduct the buy-bust operation. PO2 Wilfredo de Leon, as the assigned poseur-buyer, was given P3,000.00 placed on

top of a stack of boodle money. At around 2:30 in the afternoon, the arresting team, composed of 12 to 15 police officers on board five cars, proceeded to the target area. When they arrived at the Petron Gasoline Station along South Expressway, PO2 De Leon, together with the confidential agent, alighted from the car to await the arrival of the suspects. After five minutes, a white taxi with three unidentified passengers arrived. When they met, the confidential agent introduced PO2 De Leon to the three persons, later identified as appellants Canapi Ambalgan alias Pia, Samrod Pendatun, and Richard Nuñez, as the prospective buyer of shabu. After an exchange of pleasantries, the three drug dealers demanded to see the money. PO2 De Leon, insisted however, that they first show him the "stuff". Appellants Pia, Samrod, and Richard left but returned later with appellants Tarhata "Tata" Salmore, Sarah Pendatun, Joven Casem and Noel Lantikan. Joven Casem handed the plastic bag he was carrying to Tata who passed it on to the poseur-buyer. After examining the contents of the plastic bag, PO2 De Leon gave the pre-arranged signal. He then took out his gun and introduced himself as a narcotics agent, while the other police officers rushed to the scene to arrest the seven suspects.

Police Inspector Ma. Luisa David, forensic chemist of the PNP Crime Laboratory, examined the specimen substance and found that the same was methamphetamine hydrochloride, a regulated drug.

On the other hand, appellant Tarhata Salmore testified that among the seven appellants, only Sarah Pendatun was familiar to her. She narrated that on May 25, 1999 she was accompanied by Sarah to Taguig where they met with appellants Richard Nunez, Joven Casem, and Canapi Ambalgan. Since the group was planning to go to Laguna, Tarhata volunteered to go with them so she can visit her uncle, a sidewalk vendor, whom she has not seen since December 1998. They boarded a taxi with Richard taking the front seat while she, Sarah, Joven and Canapi on the back seat. Tarhata placed the plastic bag containing a kilo of mangoes which she bought for her uncle on the floor between her legs. Upon reaching the McDonald's Restaurant along South Expressway, Richard instructed the taxi driver to stop, after which all of them alighted from the taxi; that somebody asked her to carry a plastic bag but could not recall who it was; and that she placed the bag on a monobloc chair outside the restaurant. Moments later, she entered the restaurant with appellants Noel Lantican and Samrod Pendatun when they met the rest of the group. Then her male companions went out of the restaurant, leaving her and Sarah inside. Samrod motioned for her to pick up the plastic bag on the monobloc chair, so she went outside and followed Samrod.

Tarhata and Samrod went towards the back of the restaurant, where she noticed a woman and an old man, together with Noel Lantikan, standing beside a red car. When she went near the vehicle, Noel Lantikan shoved her inside. The three individuals then boarded the car, followed a little later by Samrod Pendatun. The unidentified woman ordered her to hand over the plastic bag. At this juncture, several men appeared and pulled the four of them out of the vehicle. Their captors dragged them towards a flesh-colored van and they were brought to Camp Crame.

Appellants Richard Nuñez and Noel Lantikan narrated a substantially similar version of the incident. Specifically, Richard Nuñez testified that on May 25, 1999 at around 10:00 in the morning, his childhood friend from Laguna, appellant Noel Lantikan, came to visit him at his house in Fairview, Quezon City. Appellant Lantikan invited

him to go to his house in Los Baños, Laguna to visit their friends. On their way to Laguna, the jeepney they were riding stopped at a Petron gasoline station along the South Expressway to gas up. They asked permission from the driver to use the comfort room which was located behind McDonald's Restaurant. While inside the rest room, they were suddenly pushed down the floor and manhandled by two armed men. They were then dragged outside towards a vehicle which brought them to Camp Crame.

Appellant Samrod Pendatun testified that on May 25, 1999, he was on board a bus on his way to Calamba, Laguna to see his uncle. Before he could reach his destination, however, the bus he was riding developed engine trouble near the McDonald's Restaurant, which was located along the South Expressway. While the bus was being fixed, he went inside the restaurant to call his wife who arrived in a taxi at around 4:00 in the afternoon. Not long after, three men collared and forcibly brought them to a waiting car.

Appellant Canapi Ambalgan testified that on May 25, 1999, he had just finished his lunch in a restaurant in Quiapo when Joven Casem, a friend from his hometown, came to see him. Casem asked if he could accompany him to Laguna to visit a relative. On their way to Laguna aboard a taxi, they asked the driver to stop by the McDonald's restaurant because they wanted to take a snack. Before they could finish their snack, however, several men collared the two of them and shoved their faces on the table. Appellant Canapi was led towards a vehicle where he was forced to lie down. Later, he found himself at Camp Crame. Appellant claimed that he was tortured to admit the possession of the plastic bag containing the prohibited drugs. He insisted that, except for Joven Casem, he had not met any of his co-accused before.

In denying the charges, appellant Joven Casem recounted that he went to Manila to look for his sister who got lost after being abandoned by her recruiter. In the morning of May 25, 1999, he and his uncle went to the Muslim mosque in Quiapo to look for her. By chance, he met appellant Canapi Ambalgan, an old friend. Canapi invited him to go to Laguna. Along the way, however, they were arrested and detained at Camp Crame. He revealed that, like the other appellants, he was also maltreated by the arresting officers.

For her part, appellant Sarah Pendatun narrated that in the morning of May 25, 1999, she was inside her house in Taguig, Maharlika Village. Her husband, appellant Samrod Pendatun, had just left to go to the recruitment agency in Manila. At around 1:00 in the afternoon, she received a call from her husband telling her to proceed to the McDonald's Restaurant at the South Expressway. She arrived there at around 3:00 p.m., and had a snack. It was then that three men pulled her husband and brought him outside. Thereafter, the men returned and ordered her to board a vehicle.

The trial court gave full credence to the testimonies of the prosecution witnesses and rendered a decision finding the seven appellants guilty beyond reasonable doubt of the crime of selling 982.1 grams of shabu, a regulated drug, the dispositive portion of which reads:^[3]

IN VIEW THEREOF, the prosecution assisted by Assistant Provincial Prosecutor Melchorito M.E. Lomarda has duly established the guilt of all

accused beyond reasonable doubt of the crime of a Violation of Section 15, Article III of RA 6425, as amended, for having sold, in conspiracy with one another, 982.1 grams of shabu, a regulated drug, to a poseur-buyer without any authority of law.

WHEREFORE, judgment is hereby rendered sentencing each of the accused Samrod Pendatun y Kasan, Richard Nunez y Sanita, Canapi Ambalgan y Bagundong @ Pia, Noel Lantikan y Peregrina, Joven Casem y Menko @ Sarip, Sarah Pendatun y Pandian and Tarhata Salmore y Watama @ Tata to suffer the penalty of *reclusion perpetua*, to pay a fine of P500,000.00 and to pay the costs of suit.

The Officer-In-Charge of this court is hereby directed to turn over the evidence consisting of a plastic bag containing 982.1 grams of shabu to the Dangerous Drugs Board for its proper disposition.

SO ORDERED.

Hence, this appeal based on the following grounds:^[4]

I.

THE LOWER COURT FAILED TO PROVE THAT THE ACTS OF THE ACCUSED COLLECTIVELY AND INDIVIDUALLY DEMONSTRATE THE EXISTENCE OF A COMMON DESIGN TOWARDS THE ACCOMPLISHMENT OF THE SAME UNLAWFUL PURPOSE, THUS CONSPIRACY IS NOT EVIDENT;

II.

THE LOWER COURT ERRED IN FINDING THAT THE ADMISSION MADE BY ACCUSED T. SALMORE SUBSTANTIATED THE ESTABLISHMENT OF THE GUILT OF ALL ACCUSED BEYOND REASONABLE DOUBT;

III.

THE "SHABU" SEIZED WAS INSIDE A CLOSED PACKAGE AND IS NOT IN PLAIN VIEW, THEREFORE, IT CANNOT BE SEIZED WITHOUT A WARRANT;

IV.

THE LOWER COURT DISREGARDED THE FACT THAT THE CONSTITUTIONAL RIGHTS OF THE ACCUSED WERE VIOLATED, SPECIFICALLY, THE DEFENSE OF NUÑEZ AND LANTIKAN THAT THEY WERE AT THE WRONG PLACE AT THE WRONG TIME; THE PENDATUN'S SPOUSES ALLEGATION THAT THEY WERE MANHANDLED; AND AMBALGAN AND CASEM'S CLAIM THAT THEY WERE SIMILARLY MALTREATED FOR NO APPARENT REASON.

To buttress their stance, appellants contend that the trial court erred in finding that their presence at McDonald's was and of itself, a conspiracy. They claim that the incredible admission made by Tarhata Salmore betrays material contradictions with the narration of PO2 De Leon resulting in the failure by the prosecution to meet the