

SECOND DIVISION

[G.R. No. 138382-84, February 12, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO ASPIRAS, ACCUSED-APPELLANT.**

D E C I S I O N

BUENA, J.:

This is an appeal from the decision of the Regional Trial Court of Parañaque, Metro Manila, Branch 259 finding accused-appellant Rolando Aspiras and accused Rodolfo San Lorenzo guilty beyond reasonable doubt of unlawfully selling marijuana, a prohibited drug, in violation of Section 4, Article II of R.A. 6425, as amended, and sentencing each of them to suffer imprisonment ranging from six (6) months of *arresto mayor*, as minimum, to six (6) years of *prision correccional* as maximum. For violation of Section 8 thereof, only accused-appellant Aspiras was found guilty of possessing prohibited drugs and was sentenced to suffer the penalty of *reclusion perpetua* and to pay a fine of five hundred thousand pesos P500,000.00.

In Criminal Case No. 95-1009 accused-appellant Aspiras and accused Lorenzo were charged with violation of Section 4, Article II of R.A. No. 6425, as amended. The information reads:

"That on or about the 27th day of December 1994 in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring and confederating together and both of them mutually helping one another, not being lawfully authorized to possess or otherwise use any prohibited drug, did then and there willfully, unlawfully and feloniously sell, deliver and give away to another for P50.00 dried marijuana flowering tops wrapped in five (5) separate aluminum foils weighing 9.7034 grams, which is a prohibited drug.

"CONTRARY TO LAW. "[1]

In Criminal Case No. 95-1010 the information against accused-appellant Aspiras alleged:

"That on or about the 27th day of December 1994, in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any prohibited drug, did then and there willfully, unlawfully and feloniously have in his possession and under his control and custody 1.4440 kilograms of dried marijuana flowering tops in two bricks which is a prohibited drug.

"CONTRARY TO LAW."^[2]

In Criminal Case No. 80148, accused Lorenzo was similarly charged with possession of 1.440 kilograms of dried marijuana, to wit:

"That on or about the 27th day of December, 1994, in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused not being lawfully authorized to possess or otherwise use any prohibited drug, did then and there willfully, unlawfully and feloniously have in his possession and under his control and custody 1.440 kilograms of dried marijuana flowering tops in two bricks which is a prohibited drug.

"CONTRARY TO LAW."^[3]

Upon motion of the defense counsel, the cases were consolidated and jointly tried.^[4]

On February 9, 1995, in Criminal Case No. 95-1009, only accused Lorenzo was arraigned and pleaded not guilty to the charge.^[5] Meanwhile, the arraignment of accused-appellant Aspiras in Criminal Cases Nos. 95-1009 and 95-1010 was deferred pending the ascertainment of the quantity of prohibited drug stated in the information.^[6]

On February 21, 1995, accused-appellant Aspiras was arraigned and entered a plea of not guilty in both criminal cases.^[7]

At the trial, police aid Jerry Sabino and PO3 Jose Soreta testified for the prosecution. The testimony of Forensic Chemist Edwin Purificando was dispensed with since the parties adopted his testimonial and documentary evidence given before MTC Branch 77 in Criminal Case No. 80148^[8] prior to its consolidation with Criminal Cases Nos. 95-1009 to 95-1010. For the defense, accused-appellant Aspiras and accused San Lorenzo testified.

The prosecution established the following facts:

On December 26, 1994, Sr. Inspector Valdez of Parañaque Philippine National Police Drug Enforcement Unit received a telephone call, informing him that a certain alias Rolly, later identified as Rolando Aspiras, herein accused-appellant, of Tambo Parañaque was peddling prohibited drugs. Upon such information, Sr. Insp. Valdez constituted PO3 Jose Soreta, Police Aides (P/A) Abelardo Soto and Jerry Sabino to conduct a surveillance operation on Rolando Aspiras. On the same day, surveillance was conducted at J. Puyat Compound where the house of the suspected peddler was located. Afterwards, the surveillance team went back to the police station and planned a buy-bust operation. On December 27, 1994, at around 7 in the evening, P/A Jerry Sabino acted as the poseur-buyer while PO3 Soreta, P/A Soto and Crisanto Cruz positioned themselves approximately ten meters away from Aspiras' house. When Sabino called for Aspiras, Rodolfo Aha San Lorenzo alias Bukol went out and inquired what Sabino wanted. Sabino related to San Lorenzo that he wanted to 'score' or buy marijuana for P50.00 pesos. Sabino then gave to San Lorenzo the

marked 5 pieces of ten peso bills worth P50.00. Upon receipt of such amount, San Lorenzo entered Aspiras' house. Soon after, Aspiras came out and asked Sabino if he was the one who wanted to score. When Sabino confirmed, Aspiras handed five (5) pieces of aluminum foils. Upon verifying its contents as marijuana, Sabino signaled his companions to make the arrest. When Aspiras saw the rest of Sabino's companions, he rushed inside his house and the police team sought after him. Thereat, the marked money was recovered from Aspiras while PO3 Soreta seized two bricks of marijuana flower tops wrapped in plastic bag under a table. Afterwards, Aspiras and San Lorenzo were brought to the headquarters and the marijuana flower tops were sent to the NBI for examination. Charges were then filed against Aspiras and San Lorenzo for violation of Sections 4 and 8 of R.A. 6425, as amended.

The defense told an entirely different story. Accused-appellant Aspiras testified that on December 27, 1994 at around 5:00 in the afternoon, he was in his house at 16th St. Puyat Compound Tambo, Parañaque with his wife and five (5) children. At around 7 in the evening, PO3 Soreta, wearing a police uniform, and his three (3) companions, in civilian clothes, forcibly entered his house while one (1) stayed outside. At gunpoint, he was ordered to stand and was handcuffed by Soreta. He asked what the problem was and the police asked him where he hid the shabu. Upon responding that there was none, the police began searching but nothing was found. Soreta instructed him to bow his head. Thereafter, P/A Sabino proceeded to the kitchen. Aspiras noticed that there was something bulging in P/A Sabino's jacket as the latter approached the kitchen. After less than 2 minutes, Sabino came out and uttered: "*Sir, meron pa lang itinatagong marijuana dito.*" Aspiras denied ownership of the marijuana. He was informed that the marijuana bricks were taken from the ceiling. Afterwhich, Aspiras was brought out of his house and walked more or less 20 meters towards Rodolfo Aha San Lorenzo's residence. When they arrived at San Lorenzo's house, accused-appellant Aspiras saw San Lorenzo in handcuffs and both of them were brought to the Coastal Police Headquarters.

For his part, accused Rodolfo San Lorenzo testified that on December 27, 1994 at around 5:00 to 6:00 p.m. while he was resting in his house with his wife and children in Puyat Compound, he heard someone knocking at his door. When he opened the door, he saw P/A Soto who invited him to go to the police station at Coastal. Upon inquiring for the reason, P/A Soto asked if he was selling shabu. When he told him that he has no knowledge thereof, P/A Soto pushed him inside his house and PO3 Soreta and P/A Sabino immediately followed and forced their way in and started to search the house. While the search ensued, P/A Sabino asked accused San Lorenzo about his source of the prohibited drugs. San Lorenzo replied that he could not show any shabu. Thereafter, he was brought out of his house where he saw accused-appellant Aspiras in handcuffs. They were brought to the Coastal police headquarters and detained. The following day, both him and accused-appellant Aspiras were investigated by Chief Inspector Valdez and charges for violation of R.A. 6425, as amended were filed against them.

On January 30, 1996, the trial court rendered its judgment convicting accused-appellant Aspiras and accused San Lorenzo of selling marijuana in violation of Section 4, Article II of R.A. 6425, as amended. With respect to the charge of possessing prohibited drugs under Section 8 thereof, accused San Lorenzo was acquitted while accused-appellant Aspiras was convicted. The dispositive portion of the decision states:

"WHEREFORE, PREMISES CONSIDERED, this Court finds both Rolando Aspiras y Layuga and Rodolfo Aha San Lorenzo 'GUILTY' beyond reasonable doubt for Violation of Sec. 4 Article II, R.A. 6425 as amended.

"Section 4 reads as follows:

"Sale, Administration, Delivery, Distribution and transportation of Prohibited Drugs – The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or shall act as a broker in any of such transactions.

"Section 17, R.A. 7659 further reads:

"Sec. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instruments of the Crime. The penalties for offenses under Sections 3,4,8 and 9 of Art. II and Sections 14, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved in any of the following quantities:

1. 40 grams or more opium;
2. 40 grams or more of morphine;
3. 200 grams or more shabu or methilamphetamine hydrochloride;
4. 40 grams or more of heroin;
5. 750 grams or more of Indian hemp or marijuana;
6. 50 grams or more of marijuana resin or marijuana resin oil;
7. 40 grams or more of cocaine or cocaine hydrochloride;
8. In the case of other dangerous drugs, the quantity of which is far beyond therapeutic requirements, as determined and promulgated by the Dangerous Drugs Board, after public consultations/hearings conducted for the purpose.

"Otherwise, if the quantity involved is less than the foregoing quantities, the penalty shall range from prision correctional to reclusion perpetua depending on the quantity.

"Both accused Rolando Luyaga Aspiras and Rodolfo Aha San Lorenzo are therefore sentenced to serve an indeterminate penalty of SIX (6) MONTHS of Arresto Mayor as the minimum to SIX (6) YEARS of prision correctional as the maximum thereof.

"Further, this Court finds Rolando Aspiras GUILTY beyond reasonable doubt for Violation of Sec. 8 Art. II R.A. 6425 as amended by R.A. 7659, Sec. 13 of R.A. 7659 reads as follows:

'xxx Sec. 8. Possession or Use of Prohibited Drugs – The penalty of reclusion perpetua to death and a fine ranging from

five hundred thousand to ten million pesos shall be imposed upon any person who, unless authorized by law, shall possess or use any prohibited drug subject to the provisions of Section 20 hereof.'

"Accused Rolando Aspiras is therefore sentenced to suffer the penalty of RECLUSION PERPETUA there being no aggravating circumstances and to pay a fine of FIVE HUNDRED THOUSAND (P500,000.00) PESOS.

"There being no sufficient evidence against San Lorenzo as regards his knowledge or participation with respect to the marijuana bricks found in the house of Rolando Aspiras the Court pronounces him NOT GUILTY of the crime of Violation of Section 8 Article II R.A. 6425 as amended in Crim. Case No. 80148.

"SO ORDERED."^[9]

Only Rolando Aspiras appealed his conviction to the Court of Appeals raising the following errors:^[10]

I. THE COURT ERRED IN NOT GIVING CREDENCE TO THE DEFENSE PUT UP BY ACCUSED-APPELLANT ROLANDO ASPIRAS; and

II. THE COURT ERRED IN CONVICTING ACCUSED-APPELLANT FOR VIOLATION OF SEC.8 ARTICLE II OF R. A. 6425, AS AMENDED

On March 31, 1999, the Court of Appeals rendered its decision affirming the conviction of accused-appellant Aspiras in Criminal Case No. 95-1009 for violation of Sec 4, Art. II of R.A. 6425, as amended. As for violation of Sec. 8 thereof, considering that the imposable penalty is *reclusion perpetua*, the cases were certified to this Court for final determination and appropriate action. The dispositive portion of the decision reads:

"WHEREFORE, PURSUANT TO Section 13, Rule 124, 1985 Rules on Criminal Procedures and Article 8, Section 5 of the Constitution of the Philippines and finding the appealed decision in Criminal Case No. 95-1009 to be in accordance with law and the evidence, the same must be affirmed; and further, finding Rolando Aspiras y Luyaga guilty beyond reasonable doubt of the crime of violation of Section 8, Article II, R.A. 6425 as amended by R.A. 7659 with the penalty of reclusion perpetua, we certify these cases to the Honorable Supreme Court for final determination and appropriate action.

"SO ORDERED."^[11]

In this appeal, accused-appellant Aspiras questions the existence of the buy-bust operation, imputes ill-motive on the police officers and asserts that the evidence against him is planted.

Is the evidence presented before the trial court sufficient to warrant accused-appellant's conviction?

The evidence shows that upon an information of alleged involvement of accused-