

## FIRST DIVISION

[ G.R. No. 128046, March 07, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON CHUA UY, ACCUSED-APPELLANT.**

### D E C I S I O N

**DAVIDE JR., C.J.:**

Ramon Chua Uy (hereafter RAMON ) appeals from the decision<sup>[1]</sup> of the Regional Trial Court of Malabon, Branch 170, Metro Manila, in Criminal Cases No. 16199-MN and No. 16200-MN, which decreed him guilty of violating Sections 15 and 16 of Article III, R.A. No. 6425,<sup>[2]</sup> as amended, for the illegal sale of 5.8564 grams of methamphetamine hydrochloride or "shabu," and possession of 401 grams of the same drug, respectively.

RAMON was arrested in the evening of 11 September 1995 by the elements of the Anti-Narcotics Unit of the Philippine National Police in Malabon, Metro-Manila, in the course of a buy-bust operation<sup>[3]</sup> and a follow-up search of his residence, and was subsequently charged in three cases, namely, Criminal Case No. 16199-MN, Criminal Case No. 16200-MN and Criminal Case No. 16201-MN.

The accusatory portion of the Information<sup>[4]</sup> in Criminal Case No. 16199-MN alleges:

That on or about the 11th day of September 1995 in the Municipality of Malabon, Metro-Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused being a private person and without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver for and in consideration of the amount of P5,000.00 to SPO1 Alberto Nepomuceno, Jr. who acted as poseur buyer white crystalline substance contained in a sealed plastic bag with markings with net weight of 5.8564 grams which substance when subjected to chemistry examination gave positive results for Methamphetamine Hydrochloride otherwise known as "Shabu" which is a regulated drug.

CONTRARY TO LAW.

The accusatory portion of the Information<sup>[5]</sup> in Criminal Case No. 16200-MN charges:

That on or about the 11th day of September 1995 in the Municipality of Malabon, Metro-Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused being a private person and without authority of law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control white crystalline substance separately contained in five (5) sealed plastic bags all with

markings with total net weight 401 grams which substance when subjected to chemistry examination gave positive results for Methamphetamine Hydrochloride otherwise known as 'shabu' which is a regulated drug.

#### CONTRARY TO LAW.

In Criminal Case No. 16201-MN, RAMON was charged with the illegal possession of "traces" of shabu found on three (3) plastic scoops and other drug paraphernalia which were seized from his supposed residence in a follow-up search.

No bail was recommended. When arraigned, RAMON pleaded not guilty in each case.

[6] During the pre-trial, the parties agreed on a joint trial and to dispense with the testimony of Forensic Chemist Loreto F. Bravo. [7] They also agreed on the marking of the exhibits for the prosecution.

At the trial, the prosecution presented as witnesses SPO1 Alberto G. Nepomuceno, Jr., who acted as the poseur-buyer, and SPO4 Eddie Regalado, another member of the buy-bust team, as rebuttal witness. The defense presented RAMON and Maritess Puno.

The trial court summarized the prosecution's evidence, thus:

The evidence on record shows that at around 5:00 o'clock in the afternoon of September 11, 1995, a female confidential informant personally informed the members of the Anti-Narcotics Unit of the Malabon Police Station, which was then holding office at Barangay Concepcion, Malabon, Metro-Manila, that accused Ramon Chua Uy "alias Chekwa" had asked her to look for a buyer of shabu at a price of P1,000.00 per gram. Acting on the given information, the members of the unit subsequently planned a buy-bust operation against the accused.

SPO4 Eddie Regalado instructed the confidential informant to consummate a deal with the accused by telling him that a prospective buyer is willing to purchase five (5) grams of the illicit drug to be delivered in front of the Justice Hall of Malabon located along Sanciango Street, Barangay Catmon. At 6:30 p.m., the confidential informant called up and informed the police officers that accused Chua Uy already agreed on the transaction as well as to the place of delivery. P/Insp. Ricardo Aquino, Chief of the Narcotics Unit, at once formed the buy-bust team composed of SPO4 Federico Ortiz and PO1 Joel Borda. After securing five (5) P1,000.00-peso bills to be used in the operation from P/Insp. Aquino, SPO4 Regalado have (sic) them photocopied, after which, [he] affixed his signatures (sic) on each of the xerox copies although the serial number of the bills were previously recorded.

The group then proceeded to Barangay Catmon at about 7:00 p.m., with SPO1 Nepomuceno designated to act as the poseur buyer. When they reached the place, SPO1 Nepomuceno first went to a store near the tennis court while the rest of the team positioned themselves in strategic locations. At 8:20 of the same evening, SPO1 Nepomuceno saw a white Toyota car came to a stop. Their confidential informant immediately

stepped out of the car and approached SPO1 Nepomuceno and ordered him to board the vehicle. Once inside, SPO1 Nepomuceno caught sight of the driver and the other male companion of accused Chua Uy through the back seat where he and the accused together with the confidential informant were seated. After a few minutes conversation, accused Chua Uy opened up his brown attaché case and ensuingly handed over to SPO1 Nepomuceno five (5) grams of 'shabu' placed in a transparent plastic packet. In exchange for the substance, SPO1 Nepomuceno delivered the five (5) P1,000-peso bills which accused Chua Uy put in his right front pocket. SPO1 Nepomuceno then simply opened the rear right door of the car and lighted a cigarette as pre-arranged signal. SPO4 Regalado and PO3 Ortiz consequently closed in on the vehicle. Thereupon, SPO1 Nepomuceno introduced himself and informed the accused of his constitutional rights before placing him under arrest. He later turned over to SPO1 Regalado the five (5) grams of 'shabu' (Exh. "E"- Crim. Case No. 16199-MN). Thereafter, SPO4 Regalado and PO3 Ortiz seized the brown attaché case from accused Chua Uy which yielded five (5) more plastic packets of "shabu," (Exhs. "D" to "D-4" -- Crim. Case No. 16200-MN), along with several drug paraphernalia. SPO4 Regalado likewise recovered the buy-bust money from the accused after the consumated (sic) transaction, (Exhs. "K" to "K-4"). The one packet of suspected "shabu" which was the subject of the sale including the five (5) packets of the same substance, taken from the brown attaché case, bearing the respective initials of SPO4 Regalado and SPO1 Nepomuceno were brought to the NBI Forensic Division. Laboratory examination of the pieces of evidence shows positive result for methamphetamine hydrochloride, a regulated drug (Exh. "C").

The team brought accused Chua Uy to their office where he was referred to SPO2 Vicente Mandac for proper investigation. In the course thereof, it was learned that there were still undetermined quantity of shabu left at the residence of the accused at No. 402 Gen. Vicente St., San Rafael Village, Navotas, Metro Manila. Forthwith, SPO4 Regalado applied on the following day for a search warrant before this Court to lawfully search the said premises of the accused for methamphetamine hydrochloride (Exh. "I"). During the search and in the presence of Bgy. Kagawad George So and Rodolfo Salvador including Maritess Puno, the alleged owner of the house and live-in partner of accused Chua Uy, the team was able to confiscate assorted articles intended for the repacking of the regulated drug (Exh. "I-1"). SPO1 Nepomuceno identified them as follows: one (1) white plastic scoop; one (1) blue plastic scoop; one (1) tangerine plastic scoop; one (1) Selecta ice cream cup; and one (1) white plastic container (Exhs. "G," "G-1," "G-2," "H and "H-1"). All the items were marked by SPO1 Nepomuceno with his initials "AGN." Along with the aforesaid articles were three (3) pieces of plastic scoops and two (2) plastic glasses (sic) with traces of "shabu." Laboratory examination made on them gave positive result for the presence of methamphetamine hydrochloride, a regulated drug (Exhibit "F"- Crim. Case No. 16200-MN). These antecedent facts which lead to the filing of the present cases against accused Chua Uy are embodied in the sworn affidavit of SPO1 Nepomuceno marked and offered in evidence as Exh. "J."

SPO4 Eddie Regalado corroborated the testimony of SPO Nepomuceno, claiming that he was positioned fifteen (15) to twenty (20) meters away when he saw SPO1 Nepomuceno entered the white Toyota car at the time of the operation. He further went to say that a caliber 9mm pistol was also recovered from accused Chua Uy but considering that up to now they have not received any certification from the Firearms and Explosives Unit, showing whether accused is authorized to carry firearm, no case has yet been filed against the latter. Further, SPO4 Regalado said that accused Chua Uy has admitted to him that he is just a neophyte in the illegal trade.<sup>[8]</sup>

RAMON's version of the incident is also faithfully summarized by the trial court, thus:

Accused Chua Uy claimed his innocence by insisting that the quantity of the illicit drug allegedly seized from him were merely "planted" by the police officers.

He stated that he has been in the business of manufacturing t-shirts and selling them in different places for almost fifteen (15) years already. That on the date of the incident at issue, it took him up to 7:30 to 8:30 in the evening to return home because he had made deliveries and had collected bigger amount of money. On board his L300 delivery van together with his driver and while they were about to enter the house, he saw a white Toyota Corolla car parked in front of the gate. A man, whom he identified as a certain Arnold, alighted from the car and approached them. Arnold was offering the said car for sale to him at a cheaper price but he declined the offer inasmuch as he already owns a van. Due to the persistence of Arnold, he agreed to test drive the vehicle bringing along with him his attache case containing the day's collection. With Arnold on the wheel, they traversed the interior alley of Dela Cruz then came out at M.H. del Pilar and proceeded to J. Alex Compound before turning to Gov. Pascual Ave., on their way back to his house. At the junction of Justice Hall Street and Gov. Pascual Ave., somebody blocked their car. Arnold lowered his side window and inquired what was it all about. Although he did not quite understand the conversation, he overheard that it was a "police bakal." When Arnold informed him that they will have to go along with the man to the police headquarters, two other men boarded their car while an owner jeep followed them from behind.

Reaching the headquarters, Arnold and the two men went inside while he was left behind inside the car. Soon after, one of the two returned to him and insisted in getting his attache case. He refused at first to surrender the same but had to give up on account of the persistence exerted on him. Ten minutes later, a man ordered him to go inside the headquarters and likewise asked him why there was "shabu" in his attache case. He denied owning the "shabu" and tried to look for Arnold who was no longer around. He even inquired how his attache case was opened considering that the key was still with him. Finally, he was dragged inside the headquarters where he saw his attache case already thrown wide. He again reiterated his earlier query and tried to look for his money but instead he was informed about the "shabu" found inside his attache case

which he, nonetheless, denied ownership. The man who earlier stopped them and those inside the headquarters, who were forcing him to admit ownership of the "shabu" told him that they were policemen. Furthermore, he recalls that aside from some documents, list of collections, checks, check booklets and 9 mm pistol, his attache case contained P132,000.00 which he was able to collect from different persons. Only a bundle consisting of P20.00 peso bills was left while the rest of his money comprising of bundles of P10, P20, P100, P500 and P1,000 peso bills were already missing.<sup>[9]</sup>

Maritess Puno, the other defense witness, testified on the events which transpired during the follow-up search by the police of RAMON's suspected house at No. 402 Gen. Vicente Street, San Rafael Village, Navotas, and on the fact that she knew RAMON.<sup>[10]</sup>

On rebuttal, SPO4 Regalado reiterated that the five (5) transparent plastic bags of "shabu" were indeed found inside RAMON's confiscated attache case and that they recovered therefrom only P20-peso bills amounting to P2,200 and not P1,000-peso bills as RAMON claims.<sup>[11]</sup>

In its decision,<sup>[12]</sup> dated 10 December 1996, the trial court found credible the testimonies of the witnesses for the prosecution and its evidence to have established beyond reasonable doubt the culpability of RAMON in Criminal Cases Nos. 16199-MN and 16200-MN. It acquitted him in Criminal Case No. 16201-MN. It then decreed:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. 16199-MN, the Court finds accused RAMON CHUA UY guilty beyond reasonable doubt of <sup>[v]</sup>iolation of Section 15, Article III of Republic Act No. 6425, amended by Republic Act No. 7659, and hereby sentences him to suffer an indeterminate penalty of six (6) months of arresto mayor, as minimum, to four (4) years and two (2) months of prision correccional as maximum plus the cost of the suit;
2. In Criminal Case No. 16200-MN, <sup>[t]</sup>he Court finds accused RAMON CHUA UY guilty beyond reasonable doubt of <sup>[v]</sup>iolation of Section 16, Article III of Republic Act No. 6425, as amended by Republic Act 7659, and considering that the quantity of methamphetamine hydrochloride is more than 200 grams, there being no mitigating or aggravating circumstance, hereby sentences him to suffer imprisonment of reclusion perpetua and to pay a fine of Five Hundred Thousand Pesos (P500,000.00), plus the cost of the suit; and
3. In Criminal Case No. 16201-MN, accused RAMON CHUA UY is hereby ACQUITTED for lack of sufficient evidence.

The trial court gave credence to the prosecution's story of a legitimate buy-bust operation; declared that poseur-buyer SPO1 Nepomuceno creditably testified as to