

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NELIDA DEQUINA Y DIMAPANAN, JOSELITO JUNDOC Y JAPITANA & NORA JINGABO Y CRUZ, ACCUSED-APPELLANTS.

Ponente: CARANDANG, J.

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CARANDANG, J.:

This is an appeal from the Decision of the Regional Trial Court, National Capital Judicial Region, Branch 27, in Manila, in Criminal Case No. 99177383 for Violation of Sec. 4 in relation to Sec. 21 (e-1), (f), (m), (o), Art. I, RA 6425 as amended by PD 1675 and RA 7659 for transporting 32.995 grams of marijuana, the dispositive portion of which reads as follows:

“WHEREFORE, premises considered, judgment is hereby rendered finding accused NELIDA DEQUINA y DIMAPANAN, JOSELITO JUNDOC y JAPITANA and NORA JINGABO y CRUZ guilty beyond reasonable doubt of the crime of illegal transport marijuana and sentencing each of them to suffer the penalty of reclusion perpetua. Each of them is ordered to pay a fine of P5000,000.00.

Costs against the accused.

The specimens subject matter of this case are hereby ordered turned over to the Dangerous Drugs Board for proper disposition.”[1]

These are the facts of the case:

In the morning of 29 September 1999, PO3 Wilfredo Masanggue and SPO1 Anthony Blanco were instructed by their superior, Chief Inspector Romulo Sapitula to proceed to the corner of Juan Luna and Raxabago Sts., Tondo Manila because based on their informant three persons (one male and two females) were coming from Baguio City to deliver an undetermined quantity of marijuana. By 9:00 AM, at the designated place, a taxi coming from Yuseco St. towards the direction of the pier pulled over and unloaded three persons, each carrying a big black duffle bag. Fitting the descriptions given by Sapitula, the two police officers trailed them. When accused-appellant Nelida noticed the police car behind them, she started walking hurriedly.[2] SPO1 Blanco gave chase while PO3 Masanggue got hold of accused Joselito and Nora. Confiscated from them were two bags also containing marijuana. At this point, Nelida dropped the bag she was carrying and the zipper gave way. Bundles of dried leaves, later found to be positive for marijuana, came into view. Thereafter, the three accused were boarded, along with their bags, into the police car and were brought to the hospital for physical examination before finally proceeding to the police headquarters.[3] The appropriate criminal charges were eventually filed against the three accused.

For her defense, Nelida claims that sometime in May 1999, she was invited by a certain Salvacion “Sally” Penaredondo to join the Kilusang Mayo Uno. On 27 September 1999, Sally informed her that the movement had decided to send her on an undisclosed mission to test her sincerity. She was further advised to bring along two companions with her on the mission, preferably a male and a female. Sally allegedly did not elaborate on the mission and Nelida never insisted on knowing more about it. On Sally’s instructions, Nelida and her chosen

companions, Joselito and Nora, went to Gaisano Mall at 6:00 AM the following morning but Nelida left the two downstairs to talk to Sally alone for instructions. There, she found out that they were to take the 7:45 AM Air Philippines flight from Iloilo to Manila. They were to stay with Nelida's aunt in Guadalupe, Makati City before going to the Philippine Rabbit Bus Station that afternoon. Take the bus to Dau, Pampanga to get some bags and "some important matters." Then, they were to take the bus back to Manila and get off at the first Shoemart (SM) Department Store that they see and a tricycle will be waiting for them there. They will be taken to a store by the tricycle driver where they will buy a box to place the bags in and a taxi will be waiting for them and take them to the Pier. Aside from their tickets for the plane to Manila as well as the boat back to Iloilo, Sally also gave her P3,000.00.[4]

When Nelida received the tickets for the plane and the boat, she noticed that the same were under assumed names. At that point, she wanted to back out, but Sally persisted and even said that something might happen to Nelida's daughter if she backed out.[5] Thus, Nelida with Joselito and Nora proceeded to Manila and then to Dau to get the bags as per Sally's instructions. However, on their way to the Pier their taxi was blocked by a police car. The police officers then ordered the taxi driver to open the compartment where the bags were and forcibly opened one. That was the only time that Nelida knew the contents of the bag. They were then herded inside the police car and brought to a "sari-sari" store where Chief Inspector Sapitula was waiting. There, they were made to line up before a group of press reporters. Then they were brought to the Ospital ng Maynila and then to the District Anti-Narcotics Unit (DANU).[6]

For their part, Joselito and Nora paint a similar story. They likewise submit that they were never privy to the meetings with Sally or to her instructions in going to Manila and Dau. They also did not know the contents of the bags they picked up from Dau. According to them, they went along with Nelida because they wanted so much to go to Manila and they did not object to using fictitious names in their tickets since the same were free.[7]

After trial, the court a quo on 30 October 2000 rendered its questioned decision. The accused-appellants are now before Us on appeal raising the following assigned errors:

"I

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND RESASONABLE DOUBT FOR ILLEGAL TRANSPORT OF MARIJUANA.

II

THE COURT A QUO GRAVELY ERRED IN ADMITTING IN EVIDENCE THE SEIZED ITEMS FROM THE ACCUSED-APPELLANTS DESPITE THE FACT THAT THEY WERE SEIZED IN VIOLATION OF THEIR CONSTITUTIONAL RIGHTS AGAINST ILLEGAL SEARCH AND SEIZURE."[8]

The appeal is devoid of merit.

Sec. 4, Art. II of RA 6425, as amended reads:

"SEC.4. 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 drugs, or shall act as a broker in any of such transactions.

X x x."

The term transport as used under the aforementioned law has been defined by the Honorable Supreme Court to

mean, “to carry or convey from one place to another.” This act is *malum prohibitum* and as such the mere commission of the act constitutes the offense which is sufficient to charge and convict the person/s committing it. And one’s intent, motive or knowledge, thereof need not be shown.[9] The prosecution witnesses, the two arresting officers, were one in testifying that three large duffle bags, containing eleven bricks of marijuana each and weighing an average of eleven kilos per bag, were seized from the accused-appellants who alighted from a taxi near the corner of Juan Luna and Raxabago streets. While both forgot to mention that they passed by a sari-sari store to meet up with their chief or that the three accused were presented to the media after the arrest, these did not affect the fact that the three were caught in flagrante of transporting the almost thirty-three kilos of dried marijuana. The accused-appellants, while claiming that they were blocked on their way to the pier and not at the corner of Juan Luna and Raxabago, never denied that the bags of marijuana were in fact confiscated from them. Besides, the accused-appellants also corroborate the testimonies of the police in being brought to the hospital and to the police headquarters afterwards.

As regards the version of Nelida, We find the same too incredible to be believable. While she wants Us to believe that she acted under compulsion and that a certain Sally called all the shots, she nevertheless admitted that their accommodations when they reached Manila was with her aunt in Guadalupe. On cross examination, she said that it was she who told Sally that they were going to stay with her aunt.[10] More importantly, the alleged threat on her daughter was unclear. At one point in her testimony, she claimed that her daughter was to be under the custody of Sally while she was away.[11] However, during the trial her lawyer manifested that her daughter was in fact in Manila and in the court room attending the hearing.[12] Moreover, accused-appellants themselves picture a very precise and elaborate scheme in the transport of the huge shipment of marijuana. With this, it is simply contrary to human experience that the people behind the shipment would entrust the same to an unknowing and uncertain person such as Nelida and her two stooges, unless they themselves were in on it. Furthermore, the scheme or transport of the marijuana shipment was so exact that Joselito and Nora only had enough time to rest in the house of Nelida’s aunt in Guadalupe - from the time they arrived in Manila in the morning to the time they had to go to provincial bus station in the afternoon, negating their purported desire to see Manila. Clearly, the defense’ story is riddled with holes.

Next, accused-appellants argue that the search made by the police was unlawful or unjustified for they were not doing any thing illegal when the police saw them carrying the big black duffle bags. Their contention is misplaced.

While this Court has always stood by the constitutionally enshrined rights against unlawful searches and seizures, such proscription admits of certain exceptions, thus:

“Search and/or seizure may be made without a warrant and the evidence obtained therefrom may be admissible in the following instances: (1) search incident to a lawful arrest; (2) search of a moving motor vehicle; (3) search in violation of customs laws; (4) seizure of evidence in plain view; (5) when the accused himself waives his right against unreasonable searches and seizures; and (6) stop-and-frisk situations.”[13]

In the present case, there was probable cause to justify a reasonable belief on the part of the police officers that accused-appellants were law offenders and/or the contents of the big black duffle bags they were carrying were instruments or effects of some offense since the three accused fit the description per Chief Inspector Sapitula’s informant, coupled with Nelida’s suspicious and nervous reaction of walking briskly away from the police officers plus the fact that the dried marijuana bricks burst into view when she dropped her duffle bag.

Be that as it may, by entering a plea upon arraignment[14] and by actively participating in the trial, the accused-appellants are deemed to have waived any objection to their arrest and warrantless search.[15]

With all the foregoing, We find neither reason nor justification to reverse the finding as well as the Decision of the trial court. Its evaluation of the credibility of the witnesses and their testimonies are accorded respect and finality for having observed the demeanor of the declarants in the course of their testimonies.[16]

WHEREFORE, the instant appeal is DENIED, the Decision of the Regional Trial Court, Branch 27, in Manila, in Criminal Case No. 99-177393, finding accused-appellants NELIDA DEQUINA y DIMAPANAN, JOSELITO JUNDOC y JAPITANA and NORA JINGABO y CRUZ guilty beyond reasonable doubt of illegally transporting 32.995 grams of marijuana is hereby AFFIRMED.

SO ORDERED.

Dacudao, (Chairman) and Arevalo-Zenarosa, JJ., concur.

[1] RTC Decision dated 30 September 2000, pp. 42-43 and 112-113, ROLLO

[2] “parang walkathon,” “patakbo,” RTC Decision, p. 155, ROLLO; TSN, 26 January 2000, pp. 7, 30-31

[3] RTC Decision, pp. 155-157, ROLLO; TSNs, 26 January 2000, pp. 6-8, 11-12, 20, 23, 28,30-31, 33-34 and 39; 2 February 2000, pp. 4-7

[4] RTC Decision, pp. 159-, ROLLO; TSN, 28 February 2000, pp. 17-19

[5] RTC Decision, p. 160, ROLLO; TSN, 28 February 2000, pp. 20-21

[6] RTC Decision, p. 163, ROLLO; TSN, 1 March 2000, pp. 12-14, 17-18 and 21

[7] RTC Decision, p. 162, ROLLO; TSNs, 8 May 2000, pp. 9 and 11; 15 May 2000, p. 5; 31 May 2000, p. 15

[8] Appellants’ Brief, p. 91, ROLLO

[9] People v. Vinecario, 420 SCRA 280, 302

[10] TSN, 10 April 2000, p. 7

[11] TSN, 28 February 2000, p. 20

[12] TSN, 1 March 2000, p. 23

[13] People v. Vinecario, 420 SCRA 280, 290

[14] Minutes, p. 35, RECORD

[15] People v. Ayangao, 427 SCRA 428, 432-433

[16] People v. Ayangao, 427 SCRA 428, 432

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