

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AL FIDELIAGA Y OBAÑA, ACCUSED-APPELLANT.

Ponente: BARRIOS, M. M., J.

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BARRIOS, M. M., J.:

This is an appeal from the Decision dated 17 May 2010 of the Regional Trial Court, Branch 93, San Pedro, Laguna in Criminal Case No. 4625-SPL which convicted accused-appellant of Illegal Possession of Marijuana penalized under Section 11, Article II of Republic Act No. 9165. The decretal portion reads:

“X X X

WHEREFORE, the court hereby sentences accused AL FIDELIAGA y OBAÑA to suffer an indeterminate penalty of imprisonment from twelve (12) years and one (1) day as minimum to fifteen (15) years as maximum and to pay a fine in the amount of P300,000.00.

The 3.35 grams of DRIED MARIJUANA FRUITING TOPS which constitutes the instrument in the commission of the crime is confiscated and forfeited in favor of the government. Atty. Jaarmy Bolus-Romero, Branch Clerk of Court is hereby directed to immediately transmit the 3.35 grams of DRIED MARIJUANA FRUITING TOPS to the Dangerous Drugs Board for proper disposition.

SO ORDERED.”

THE ANTECEDENT FACTS

The Information reads as follows:

“X X X

“That on or about the 27th of November 2002, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court the said accused without any legal authority, did then and there willfully, unlawfully and feloniously have in his possession, control and custody one (1) heat-sealed transparent plastic bag containing DRIED MARIJUANA FRUITING TOPS, a dangerous drugs, [sic] weighing three point thirty-five (3.35) grams.

CONTRARY TO LAW.

X X X”

When arraigned, accused-appellant pleaded “Not Guilty”.

In the pre-trial hearing, the jurisdiction of the court and the identity of the accused-appellant were admitted. The pieces of evidence were also marked.

The witnesses for the prosecution were PO1 Rommel Bautista and forensic chemist Donna Villa Huelgas. During the trial, however, the latter's testimony was dispensed with when the defense admitted the genuineness and due execution of her chemistry report.[1] On the other hand, the defense presented accused-appellant, his live-in

partner Geraldine Pama, Joseph Alvarez, and Magnolia Reyes.

On 27 November 2002, at around 3 P.M., PO2 Rommel Bautista and PO1 Joselito Licerio of the PNP-San Pedro, Laguna conducted surveillance operation along Remarata Street, San Vicente, San Pedro, Laguna amid reports of illegal selling of shabu in the area. While walking, they saw accused-appellant talking with another man who handed him a transparent plastic sachet that contained dried marijuana leaves. The policemen immediately arrested accused-appellant and confiscated the drugs from him. PO1 Licerio also chased the other man, but the latter was able to escape. Accused-appellant was brought to the police office in San Pedro, Laguna where the plastic sachet was marked with his initials, "AOF". Thereafter, the same was forwarded to the crime laboratory in Camp Vicente Lim, Calamba City for examination. In due time, the chemistry report was issued attesting that the seized item was marijuana, a prohibited drug.

In his defense, the 28-year old accused-appellant testified that at that time material, he was resting inside his house at the Berroya Compound along Remarata Street when he heard a commotion outside. When he looked out of the window, he saw three (3) men being accosted by two (2) police officers. However, two (2) of the men ran away towards the back of his house and the policemen ran after them. Surprisingly, the policemen entered his house looking for marijuana and ordered him to produce the same. He told them that he had no marijuana and that he was just a tricycle driver. Finding nothing, the policemen took oxalic powder which was used for bleaching, presuming it to be shabu, and brought him and the other man to the town hall of San Pedro, Laguna. There, he was presented with the oxalic powder and marijuana allegedly taken from him. That was the first time he saw the marijuana.

Geraldine Pama, the live-in partner of accused-appellant, corroborated his testimony insisting that it was PO2 Bautista who produced the plastic sachet of marijuana and tried to implicate accused-appellant. The other defense witnesses, Joseph Alvarez and Magnolia Reyes, also corroborated accused-appellant's testimony.

As heretofore said, the trial court found accused-appellant guilty beyond reasonable doubt of Illegal Possession of Drugs.

In this appeal, accused-appellant raises the following assignment of errors:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTION 11, ARTICLE II OF REPUBLIC ACT NO. 9165

II

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE WITH CERTAINTY THE CORPUS DELICTI OF THE OFFENSE CHARGED

III

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE THE PROPER CHAIN OF CUSTODY OF THE SEIZED DANGEROUS DRUG

OUR RULING

The appeal has no merit.

Accused-appellant mainly contends that the testimony of PO2 Rommel Bautista is uncorroborated and highly doubtful.

We are not persuaded. In Our view, the categorical and straightforward testimony of PO2 Bautista has convincingly established the elements of the crime of illegal possession of prohibited drugs. He was able to narrate the circumstances that led to the apprehension of accused-appellant, and he positively identified in court the person of accused-appellant as the one whom they arrested. Moreover, the proffered testimony of forensic chemist Donna Villa Huelgas relative to her examination and finding under Chemistry Report No. D-2723-02 that the item seized from accused-appellant is marijuana is unmistakably clear and complete on the material points.

For illegal possession of regulated or prohibited drugs, the prosecution must establish the following elements: (1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.[2] All these elements have been duly proven by the prosecution. Accused-appellant was caught in flagrante delicto while in possession of a plastic pack containing suspected prohibited drug. The seized items were subjected to laboratory examination and thereafter, found to be marijuana.

Moreover, accused-appellant also contends that the prosecution failed to comply with the requirements of Section 21 of the Implementing Rules of R.A. 9165[3] because of the lack of inventory and photographs of the confiscated marijuana. This argument is untenable. Time and again, it has been held that non-compliance with Section 21 is not necessarily fatal. Strict compliance with this requirement may not always be possible under field conditions as the police operates under varied conditions, and cannot at all times attend to all the niceties of the procedures in the handling of confiscated evidence.[4] As the Supreme Court has held, what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.[5]

In the case under consideration, We find that the integrity of the seized marijuana remained intact. PO2 Bautista testified in detail that at the time of the apprehension, he took custody of the plastic sachet containing marijuana and immediately marked the initials "AOF" thereon. He then personally delivered the item to the crime laboratory for examination by Forensic Chemist Huelgas, and which later yielded positive result for marijuana. These facts are manifest in the Request for Laboratory Examination[6] and in the Chemistry Report, the authenticity of which were stipulated upon by the parties. Verily, a testimony about a perfect chain is not always the standard as it is almost always impossible to obtain an unbroken chain.[7] What is essential is the preservation of the integrity and evidentiary value of the seized drugs. Absent any proof of ill-motive on the part of the police officers to falsely charge him of such offense, the presumption of regularity in the performance of official duty and findings of the trial court as to the credibility of witnesses shall prevail over accused-appellant's allegations of frame-up.

Relative to the defense evidence, regrettably We cannot give due credence to the testimonies of the accused-appellant's live-in partner, household member, and neighbor as these are obviously self-serving and biased. It has been held in a number of cases that corroborative evidence in favor of an accused, if tainted with bias, weakens the defense.[8]

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 17 May 2010 of the Regional Trial Court, Branch 93, San Pedro, Laguna is hereby AFFIRMED.

SO ORDERED.

Reyes, Jr., (Chairperson) and Pizarro, JJ., concur.

[1] Records, Exhibit “C”, Chemistry Report No. D-2723-02, p. 36.

[2] *Asiatico v. People*, GR No. 195005, 12 September 2011.

[3] Sec. 21. (a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof. Provided, that the physical inventory and the photograph shall be conducted at the place where the search warrant is served; or at least the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that noncompliance with these requirements under justifiable grounds, as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending team/officer, shall not render void and invalid such seizures of and custody over said items.

[4] *People v. Llanita*, GR No. 189817, 03 October 2012 citing *People v. Lorena*, GR No. 184954, 10 January 2011, citing *People v. Pringas*, GR No. 175928, 31 August 2007.

[5] *Id.*

[6] Records, Exhibit “B”, p. 66.

[7] *Supra*, note 2.

[8] *People v. Dones*, GR No. 108743, 13 March 1996

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