

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIA DAGDAGAN AND NELLY BAY-AN Y DALNORES, ACCUSED, NELLY BAY-AN Y DALNORES, ACCUSED-APPELLANT.

G.R. No. 100332. March 22, 1993

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

This is an appeal interposed by accused Nelly Bay-an y Dalnores from the decision[*] of the Regional Trial Court, Paniqui, Tarlac, holding accused guilty of violating Article II, Section 4 of Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972.

On December 14, 1989, an information for violation of Article II, Section 4 of Republic Act No. 6425 was filed against Nelly Bay-an and Maria Dagdagan. However, only the former was arraigned under the said information as the latter was able to escape.

We summarize the relevant facts as found by the trial court as follows --

In the afternoon of December 5, 1989, accused Nelly Bay-an y Dalnores and Maria Dagdagan boarded Times Transit bearing body number 330 at Barangay Paringao, Baoang, La Union. The bus was on its way from Vigan, Ilocos Sur to Cubao, Quezon City. They had with them two boxes, an electric fan, and a pail which were at first deposited at the aisle of the bus but were subsequently transferred near the back seat by the bus conductor, Antonio Ramos, Jr.

The bus passed through three checkpoints. At the third checkpoint, the team composed of Major Cabading, Sgt. Macario Baldo, Sgt. Moises, Sgt. Carriaga, and M/Sgt. Napoleon Dumlao conducted an inspection inside the bus. Consequently, the two boxes were opened and twenty-one (21) packages of marijuana were discovered inside. The investigators inquired as to the ownership of the said boxes and the conductor pointed to accused Bay-an and to Dagdagan as the owners. As a result, the two were detained.

After the trial, the lower court pronounced Bay-an guilty of the crime charged. The dispositive portion of the decision is quoted, to wit:

“WHEREFORE, with these considerations, judgment is hereby rendered finding the accused, Nelly Bay-an y Dalnores guilty beyond reasonable doubt of Violation of Section 4, Article II, of R.A. 6425 as charged in the Information and is sentenced to suffer the penalty of life imprisonment and to pay a fine of P25,000.00. With one-half (1/2) of the costs.

The two boxes of marijuana (Exhibits “E”, and “E-1”, “F” and “F-1”) are hereby confiscated and forfeited in favor of the government. Upon finality of this decision, these exhibits are hereby ordered burned in the presence of the Provincial Prosecutor, the Clerk of Court and a representative of the PNP at Paniqui, Tarlac.

SO ORDERED.”[1]

Accused Nelly Bay-an appealed to this Court and made the following assignment of errors:

I

THE TRIAL COURT ERRED IN HOLDING THAT ACCUSED-APPELLANT NELLY BAY-AN Y DALNORES OWNED THE TWO BOXES WHICH CONTAINED TWENTY-ONE (21) PACKS OF MARIJUANA DRIED LEAVES.

II

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT NELLY BAY-AN GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED IN THE INFORMATION.

She presented a counter statement of facts where she denied ownership of the subject boxes. She also denied knowing her co-accused Dagdagan prior to their detention. The gist of her statement was that the bus conductor erroneously pointed to her and Dagdagan as the owners of the boxes.

This appeal hinges on the sufficiency of the evidence presented by the prosecution to convict accused-appellant Nelly Bay-an. A reading of the trial court's decision reveals that the pronouncement of guilt was entirely based on the testimony of the bus conductor, Antonio Ramos, Jr., who positively identified herein accused-appellant and her alleged companion, Maria Dagdagan, as the owners of the two boxes containing marijuana. Relying upon his testimony, the trial court concluded that the guilt of Nelly Bay-an has been established by proof beyond reasonable doubt. We, however, rule otherwise.

Well-enshrined, in our jurisdiction is the principle that the accused is presumed to be innocent until the contrary is proven.[2] "x x x This constitutional presumption of innocence can be overcome only by proof beyond reasonable doubt x x x"[3] which "x x x requires moral certainty of guilt, a certainty that convinces and satisfies the reason and conscience of those who act upon it".[4] This quantum of proof, however, was not satisfied in this case. A review of the records, particularly of the testimony of Antonio Ramos, Jr., created doubts in the mind of this Court regarding the guilt of the accused-appellant.

In resolving this appeal, We are not departing from the finding of the trial court regarding the credibility of Antonio Ramos, Jr. to be a witness in this case. Where there is no evidence and nothing to indicate that the prosecution's principal witness was moved by improper motives, the presumption is that he was not so moved and his testimony is entitled to full faith and credit.[5] Neither do We doubt the credibility of his testimony. However, in order to support a conviction, that testimony must not only be credible and positive, but also sufficient to support a finding of guilt beyond reasonable doubt.[6] Hence, the only issue left for Our resolution is whether the guilt of accused-appellant has been established beyond reasonable doubt.

In disposing of this appeal, We reiterate the principle that --

"If the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction."[7]

Antonio Ramos, Jr. testified during the trial that two women, namely Nelly Bay-an and Maria Dagdagan, boarded the bus together at Paringao, Baoang, La Union bringing with them two carton boxes, an electric fan, and a pail. He added that when he asked them about their destination, only one, Nelly Bay-an, answered.[8] These were his only basis for saying that the two passengers were companions. He, however, also testified during the cross-examination that the accused were seated separately and that each paid for her respective ticket.[9]

We believe, however, that the bus conductor's basis for his conclusion did not preclude any other inference. The only fact that was indubitably shown was that the two accused boarded the bus at the same time. But whether they

were companions or not remained unanswered. It was upon the prosecution to present evidence to that effect as this case was anchored on the fact of co-possession/ownership by the accused of the boxes. Instead, in this case, We can reasonably infer that Maria Dagdagan and Nelly Bay-an were truly strangers to each other and that they only happened to board the same bus at the same time. This is not unusual. Moreover, there were circumstances that could show that the two accused did not know each other - such as seating and paying the fare separately. Add to this the testimony of Nelly Bay-an herself that she had never known Maria Dagdagan prior to their detention and that she only saw a woman and a man along the highway where she was also waiting for the bus.[10] The fact that only Maria Dagdagan escaped may also lead to the interpretation that the two were actually strangers. If that is so, then it is also very probable that only the latter owned the boxes and that the accused-appellant herein had nothing to do with the subject boxes of marijuana. Thus, consistent with the aforequoted principle, the interpretation exculpating Nelly Bay-an should be the one adopted by this Court.

Moreover, the trial court, in convicting accused-appellant, made the following pronouncement:

“In contrast, Nelly Bay-an merely denied owning the cartoons containing the marijuana. She even denied acquaintanceship with Maria Dagdagan. But, she boarded the Times Transit bus at almost the same time Paringao, Baoang, La Union, with Maria Dagdagan. More than that, she disowned seeing the boxes. For what she saw inside the bus was a different box.

This type of testimony is certainly a haphazard attempt to escape responsibility. By its nature, it amounts to no defense at all. Moreso that, she was positively identified by Antonio Ramos, Jr., the bus conductor, who was clearly without cause to unduly incriminate Nelly Bay-an. The undisputed fact was that Nelly Bay-an and Maria Dagdagan boarded the bus at Paringao, Baoang, La Union, carrying the boxes with them obviously bound for the same destination. In fact, when Antonio Ramos, Jr., asked them where they were, it was Nelly Bay-an who answered. Thereafter, they were issued their tickets.”[11]

This decision, however, ignores the doctrine that:

“x x x (E)ven if the defense is weak, the case against the accused must fail if the prosecution is even weaker, for the conviction of the accused must rest not on the weakness of the defense but on the strength of the prosecution. Indeed, if the prosecution has not sufficiently established the guilt of the accused, he has a right to be acquitted and released even if he presents naught a shred of evidence.”[12]

In favoring her innocence, We are, of course, not discounting the possibility that accused-appellant is indeed guilty of the crime charged. Should that be the truth, We cannot help but be saddened by the unfortunate circumstance of freeing one who contributes to the ever-growing menace of drug-addiction in our society. But We cannot simply ignore the fact that the burden of proof was not met by the prosecution. We have consistently ruled that “Courts must [also] be extra vigilant in trying drug charges lest an innocent person is made to suffer the usually severe penalties of drug offenses.”[13] Adhering to this rule and to the time-honored principle that “x x x it is preferable for the guilty to remain unpunished than for an innocent person to suffer a long term unjustly, x x x.”[14] We find the evidence for the prosecution not sufficient to establish the guilt of the accused beyond reasonable doubt.

WHEREFORE, on reasonable doubt, the judgment of the trial court is hereby REVERSED and SET ASIDE and accused-appellant is hereby ACQUITTED. Her immediate release from custody is hereby ordered, unless she is otherwise detained for some other lawful cause.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

[*] Crim. Case No. 349-P'90, February 14, 1991; penned by Judge Romeo D. Magat.

[1] Decision, pp. 3-4; Rollo, pp. 12-13.

[2] Const., Art. III, Sec. 14(2). "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. x x x." (Underscoring Ours.)

[3] *People v. Bacus*, 204 SCRA 81, 93 (1991).

[4] *People v. Viray*, 202 SCRA 320, 332 (1991).

[5] *People v. Patog*, 144 SCRA 429 (1991).

[6] See *People v. Catubig*, 195 SCRA 505 (1991); *People v. Sampaga*, 202 SCRA 157 (1991).

[7] *People v. Libag*, 184 SCRA 707, 719 (1990), citing *People v. Parayno*, 24 SCRA 3 (1968); *People v. Ale*, 145 SCRA 50 (1986). See also *People v. Remorosa*, 200 SCRA 350 (1991); *People v. Taruc*, 157 SCRA 178 (1988).

[8] TSN, November 26, 1990, p. 6.

[9] *Ibid.*

[10] TSN, January 28, 1991, p. 5.

[11] *Supra*, note 1 at p. 3.

[12] *People v. Guinto*, 184 SCRA 287, 293 (1990).

[13] *People v. Salcedo*, 195 SCRA 345, 352 (1991), citing *People v. Ale*, 145 SCRA 50, 58-59 (1986).

[14] *People v. Songcuan*, 176 SCRA 354, 372 (1989); see also *People v. Alcaraz*, 136 SCRA 74, 91 (1985).

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