

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LUIS SAMSON Y CAMON AND GIL CAMPORAZO, ACCUSED-APPELLANTS.

*G.R. No. 101333. March 02, 1993*

Ponente: CAMPOS, JR., J.

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### CAMPOS, JR., J.:

This is an appeal from the decision[\*] of the Regional Trial Court, 6th Judicial Region, Branch 63, of La Carlota City, in Criminal Case No. 340 finding the accused LUIS SAMSON and GIL CAMPORAZO guilty beyond reasonable doubt of violating Section 4 of Republic Act No. 6425, otherwise known as the "Dangerous Drugs Act of 1972", and sentencing both accused to suffer the penalty of Life Imprisonment and to each pay a fine of P25,000.00 with cost de officio.

The information charging both accused is as follows:

"The undersigned City Fiscal accuses LUIS SAMSON Y CAMON and GIL CAMPORAZO of "VIOLATION OF SEC. 8 R.A. 6425 AS AMENDED", committed as follows:

That on or about the 9th day of March, 1987, in the City of La Carlota, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused without being authorized by law, did, then and there, wilfully, feloniously and unlawfully jointly sell and possess twelve (12) sticks of dried marijuana leaves.

AN ACT CONTRARY TO LAW."[1]

On September 17, 1987, both accused, assisted by their counsel, pleaded not guilty to the offense charged.[2]

After due trial, the trial court rendered its decision convicting both accused of the offense charged, the dispositive portion of which reads as follows:

"WHEREFORE, the court finds the accused LUIS SAMSON and GIL CAMPORAZO, guilty beyond reasonable doubt of selling marijuana or Indian Hemp, a prohibited drug, in violation of Section 4 of Republic Act No. 6425, otherwise known as the Dangerous Drug (sic) Act of 1972, and sentences each of the said accused to suffer the penalty of life imprisonment and to pay a fine of P25,000.00 with cost de officio.

SO ORDERED."[3]

Feeling aggrieved, both accused appealed to Us attributing to the trial court the following assignment of errors[4]:

I

THE COURT A-QUO COMMITTED TOO SERIOUS AND OBVIOUS ERROR IN CONVICTING BOTH APPELLANTS, WITHOUT THE INFORMANT-TURNED POSEUR-BUYER BEING PRESENTED IN COURT, CONSIDERING THAT BOTH APPELLANTS VEHEMENTLY DENIED HAVING SOLD MARIJUANA TO ANYONE.

II

THE COURT A-QUO COMMITTED TOO SERIOUS AND OBVIOUS ERROR IN GIVING MUCH

WEIGHT AND CREDENCE TO THE HEARSAY, SELF-SERVING AND UNCORROBORATED TESTIMONY OF PATROLMAN ROLANDO ZAMORA.

III

THE COURT A-QUO GRAVELY ERRED IN NOT ACQUITTING BOTH APPELLANTS ON GROUNDS OF REASONABLE DOUBTS.

The People's version, as culled from the testimony of Patrolman Rolando Zamora of the then Integrated National Police, La Carlota City, tends to establish that on March 9, 1987, he was the duty guard of Agora Market located at Yungue Street.[5] At around 4:45 in the afternoon of that same day, his informant told him that somebody was selling marijuana at San Agustin Street.[6] Upon being informed, he brought the informant to the police station, gave him a marked P20.00 bill with Serial No. 279556 and told him to buy marijuana. The informant told him that it was Luis Samson and Gil Camporazo who were selling marijuana.[7] After which the informant proceeded to San Agustin Street while he followed the former. Upon reaching the said street, the informant bought marijuana from Luis Samson in front of the house of a certain Ms. Guera. It was Luis Samson who received the marked P20.00 bill from the informant, while Gil Camporazo was the one who gave the dried marijuana leaves to the informant.[8] He witnessed the transaction at a distance of about 30 meters from where the sale took place. After the sale, he waited for his informant to get the marijuana and thereafter he apprehended Luis Samson and Gil Camporazo.[9] Before bringing the two to the police station, he made a body search. Recovered from the pocket of Luis Samson was money including the marked P20.00 bill.[10] On the other hand, recovered from the person of Gil Camporazo were dried marijuana leaves which were already rolled.[11] He was able to take possession of the marijuana from his informant. After which, he brought Luis Samson and Gil Camporazo to the police station.[12]

Sgt. Mariano P. Palmes, assistant of Forensic Chemist P/Lt. Zenaida Sinfuego testified that the twelve (12) sticks of suspected marijuana cigarettes which were subjected to chemical analysis were found positive for marijuana.[13]

Accused Luis Samson's version of the event which was materially corroborated by accused Gil Camporazo is as follows: On March 9, 1987 at more or less 4:45 p.m., accused Luis Samson together with accused Gil Camporazo has just finished working on the roof of the former's house. Because they were tired, they went to the store nearby and asked the owner of the store for a credit of 1/2 gallon of tuba. After having consumed one (1) glass of tuba each,[14] they saw Pat. Rolando Zamora approach them and suddenly searched them. They asked the reason for searching their persons but got no reply. Pat. Zamora looked into their pockets but did not get anything. The act of searching them was observed by several onlookers.[15] Pat. Zamora immediately got something from his pocket and told them that those things came from theirs.[16] They resisted being brought to the police station because they did not know what their mistake was.[17]

Both accused pleaded not guilty to the offense charged.

After a careful analysis of the evidence, We find that the prosecution failed to establish beyond reasonable doubt that both accused indeed sold or possessed marijuana leaves.

In convicting the accused, the trial court merely relied on the testimony of Pat. Zamora, the lone prosecution witness. We have held that the testimony of a single witness, if credible and positive and if it satisfies the court as to the guilt of the accused beyond reasonable doubt is sufficient to convict.[18] However, We find his testimony replete with details that rule out a judgment of conviction for both accused.

Pat. Zamora contradicted himself in the following instances:

1. As to what Pat. Zamora found in the possession of accused Gil Camporazo when he made a body search, he testified on direct examination, to wit:

FISCAL MANALO: What about Jill (sic) Camporazo, What did you do to him?

A : I also searched him.

Q : Let us make this clear, you said that before you rode in the tricycle towards the police station you made search on Jill (sic) Campora-zo, what did you find out?

A : Question was already answered there was nothing in the body of Jill (sic) Camporazo.

Court : There was no statement, witness may answer.

A : Dried marijuana leaves which was (sic) already rolled.

FISCAL MANALO: Where did you find it in what part of the body did you find the marijuana leaves from the body of Camporazo?

A : There was no more marijuana leaves from Camporazo because he delivered it to the informant (TSN, p. 9-10, October 13, 1987).

2. As to what he did after the informant received the marijuana leaves, he testified on direct examination, to wit:

ATTY. LOBRIDO: When you saw Luis Samson re-ceived(sic) P20 from you in-formant and Jill (sic) Campo-razo delivered the marijuana leaves. What did you do?

A : I wait(sic) for the informant to get the marijuana after that I apprehended the two. (TSN, p. 8, October 13, 1987).

Doubts have also been cast on the following of Pat. Zamora during the cross examination:

ATTY. LOBRIDO: I am asking, what makes you certain that what was given to you are marijuana?

A : Because when I opened it the physical appearance of mari-juana which was taken from Jill (sic) Camporazo was the same specimen from my marijuana. (TSN, p. 20, October 17, 1987).

From the above-quoted testimony, Pat. Zamora revealed that he had in his possession marijuana prior to his search of the accused to which he compared the given by the informant-poser-buyer him. It is highly suspicious of a peace officer to be carrying marijuana during the buy-bust operation which he himself will conduct.

Aside from the contradictory statements of Pat. Zamora, there is reasonable doubt as to whether the alleged buy-bust operation ever took place. Pat. Zamora testified that he was a duty guard at Agora Market when an informant approached him and told him that somebody was selling marijuana. Immediately, Pat. Zamora accompanied him to the police station and gave him the marked P20.00 bill. If it were true that a buy-bust operation took place, why did Pat. Zamora not inform his co-police officers about the said operation when he went to get the marked money? Why did he not inform his superior officer about such operation?

We have ruled in the case of *People v. Honrada y Joben*,<sup>[19]</sup> that:

"In buy-bust operations, a surveillance is usually conducted to identify the drug-pusher who would be the subject of the entrapment. In other cases of buy-bust operations, the police team who conducts the operation does so after a reliable informant point (sic) to a particular place where the sale of prohibited drugs by notorious drug pusher is rampant."

No evidence was presented to show that a surveillance was conducted on the two accused before their arrest. Even

the identity of the informant-poser-buyer is shady. He was never presented in court. Neither was his affidavit taken to attest to the circumstances surrounding the said buy-bust operation.

In addition thereto, Pat. Zamora cannot even recall the desk officer who had recorded the marked money and twelve (12) sticks of marijuana in the police blotter and to whom he gave the said sticks of marijuana.[20]

We agree with the accused's contention that the failure to present the informant in Court in order that he could testify as to the details of the buy-bust operation seriously impaired the credibility of the lone witness for the prosecution.

It will be noted that Pat. Zamora was never privy to the conversation between the informant-poser-buyer and the two accused. Considering his distance of 30 meters from the place where the transaction took place, what he saw were only physical movements of the parties which are not conclusive as to what actually transpired. It was therefore incumbent upon the prosecution to present the informant-poser-buyer because Pat. Zamora has no personal knowledge of the transaction that transpired between the informant--poser-buyer and the two accused. The informant-poser--buyer was the only one who could "provide the most accurate account of the transaction"[21] and "speak convincingly about the purported sale".[22] We have ruled in the case of *People v. Salcedo*[23] that:

"Considering appellant's outright denial and totally different version of the events resulting in his arrest, it became incumbent upon the prosecution to rebut appellant's allegations by presenting x x x, the alleged, poser-buyer. This it failed to do, giving rise to the presumption that evidence willfully suppressed would be adverse if produced [Rule 131, Sec. 5(e)]. This failure which as ruled by this Court constitutes as fatal flaw in the prosecution's evidence since the so-called informant who was never presented as a witness and never identified, is the best witness for the prosecution."

WHEREFORE, the decision of the trial court is hereby REVERSED and SET ASIDE. Accused LUIS SAMSON AND GIL CAMPORAZO are hereby ACQUITTED of the crime charged. Their immediate release from prison is hereby ordered unless they are being held for some other cause.  
SO ORDERED.

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

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[\*] Penned by Judge Alfonso V. Combong, Jr.

[1] Rollo, p. 6.

[2] Records, p. 19.

[3] Decision, p. 8; Rollo, p. 16.

[4] Appellants' Brief, p. 5; Rollo, p. 28.

[5] TSN, October 13, 1987, p. 3.

[6] Ibid., p. 4.

[7] Ibid., pp. 5-6.

[8] Ibid., p. 7.

[9] Ibid., p. 8.

[10] Ibid., p. 9.

[11] Ibid., p. 10.

[12] Ibid., p. 11

[13] TSN, March 21, 1988, pp. 14-16.

[14] TSN, November 13, 1989, p. 5.

[15] Ibid., p. 8.

[16] Ibid., p. 6.

[17] Ibid., p. 8.

[18] *People v. Consuelo*, 184 SCRA 406 (1990); *People v. Javier*, 182 SCRA 830 (1990).

**[19] 204 SCRA 858, 866 (1991).**

[20] TSN, October 13, 1987, p. 12.

[21] *People v. Queroben y Acla*, G.R. No. 84917, September 18, 1992.

[22] *People v. Caponpon*, 204 SCRA 116 (1991).

[23] 195 SCRA 345, 353 (1991), citing *People v. Rojo*, 175 SCRA 119 (1989).

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