

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO MORTOS Y TOLENTINO, ACCUSED-APPELLANT.

G.R. No. 103632. September 01, 1993

Ponente: ROMERO, J.

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ROMERO, J.:

This is an appeal from the decision[1] of the Regional Trial Court convicting accused-appellant Rogelio Mortos of violating Section 4, Article II of Republic Act 6425, otherwise known as the Dangerous Drugs Act which provides:

“SEC. 4. Sale, Administration, Delivery Distribution and Transportation of Prohibited Drugs. - The penalty of life imprisonment to death and a fine ranging from twenty thousand to thirty thousand 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 drug, or shall act as a broker in any of such transactions. If the victim of the offense is a minor, or should a prohibited drug involved in any offense under this Section be the proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed.” (As amended by PD No. 1675, February 17, 1980)

From the records, we gathered the following facts.

In the afternoon of January 5, 1990, an informant reported to the Criminal Investigation Service in Cainta, Rizal a certain person who was selling marijuana in Sitio Ruhay, Mambuyan, Antipolo, Rizal. Accordingly, a buy-bust team composed of C1C Rogelio Dado, Sgt. Romeo Savillo, C1C Manuel Mercader, and C2C Ronald Villacruz was organized. Thereafter, the team accompanied by the informant proceeded to the aforementioned place where informant identified the person who was sought to be arrested. Afterwards, the group carried out the plan for the arrest of the suspected pusher.

C1C Manuel Mercader alighted from the vehicle, walked towards Rogelio Mortos who was then in a sari-sari store where several people were present, and acting as the poseur-buyer, inquired from the latter if he was selling marijuana. When Rogelio Mortos answered in the affirmative, Mercader handed him five (5) marked twenty (20) peso bills. He was then asked to wait while Rogelio Mortos got the marijuana from the sari-sari store. Upon his return, Rogelio Mortos handed to Manuel Mercader a plastic bag containing 50 grams of marijuana. Upon receipt thereof, he scratched his head, the pre-arranged signal to the rest of his team who thereupon approached the two and arrested Rogelio Mortos. They confiscated from him the marked money and tea bags of marijuana. These were later presented as evidence against accused-appellant.

Rogelio Mortos, however, denied selling marijuana. He claimed that he was buying cigarettes from the sari-sari store when he was arrested and brought to the police station where he was allegedly forced to sign a document and five (5) twenty peso bills.[2] He also averred that no marijuana or marked bills were ever seized from him.

After trial, the lower court pronounced the accused guilty beyond reasonable doubt. The dispositive portion of the appealed decision reads as follows:

“ALINSUNOD SA MGA NASABI, dahilan sa napatunayan ng taga-usig nang walang bahid alinlangan na si Rogelio Mortos y Tolentino, ang nasasakdal ay nagkasala ng krimeng Paglabag sa Pangkat 4 ng Artikulo II ng Batas Republika 6425 (na sinusugan noong 1972, 1980, at 1982), siya ay pinapatawan ng Hukuman, sang-ayon sa nasabing batas ng parusang habang buhay na pagkabilanggo; at magbayad ng multang DALAWAMPUNG LIBONG PISO (P20,000.00).

Dahil sa siya isang bilanggo, ang panahong inilagì ni Rogelio Mortos y Tolentino sa piitan ay ibabawas sa nasabing parusa kung siya ay sasang-ayon sa mga disciplinary rules na inilalapat sa mga bilanggo alinsunod sa Artikulo 29 ng Bagong Kodigo Penal na sinusugan ng Batas Republika 6127 at Batas Pambansa Blg. 85.

WALANG KOSTAS.

ITO ANG IPINAG-UUTOS.”[3]

As basis for the judgment of conviction, the trial court relied upon the testimony of the apprehending officers, namely Manuel Mercader, Domingo Dado, and Romeo Savillo, all of whom identified Rogelio Mortos as the drug-pushing suspect who was apprehended during the buy-bust operation and testified that Rogelio Mortos was caught in the act of selling marijuana to Rogelio Mercader. It held that the testimonies of the above-mentioned officers sufficiently established the guilt of the accused beyond reasonable doubt, notwithstanding his denials in his testimonies. According to the trial court, the accused did not succeed in imputing malice on the part of the arresting officers for arresting and testifying against him.

Accordingly, the trial court applied the rule that public officers are presumed to have performed their duties in accordance with the law. Furthermore, the trial court held that the inconsistencies in the testimonies of the officers were minor and instead of destroying the credibility of their testimonies, buttressed the same.

Rogelio Mortos now appeals his conviction with this sole assignment of error, to wit:

“The Court a quo committed a reversible error in admitting the tea bags of marijuana and the twenty peso bills adduced in evidence by the prosecution.”[4]

The assignment of error goes beyond the issue regarding the admissibility as evidence of the marked money and marijuana. In effect, it questions the manner by which accused-appellant has been arrested and brought to trial.

In the Appellant’s Brief, Rogelio Mortos argued that the provisions of Sec. 5, Rule 113 of the Rules of Court[5] regarding warrantless arrests are not applicable because he has not committed, nor was he committing, nor was he about to commit a crime when he was arrested. For his arrest and for the search to be valid, therefore, a warrant of arrest and a search warrant were necessary.

We find no reason to reverse the trial court’s judgment.

After a careful review of the records, we are convinced that the prosecution successfully overcame the initial presumption of innocence enjoyed by the accused and proved the latter’s guilt beyond reasonable doubt. To recall, the arresting officers, including the officer who acted as the poseur-buyer, positively testified that Rogelio Mortos was caught selling marijuana.

To rebut the testimony of the prosecution, the defense presented Rogelio Mortos to testify that he had been coerced into signing a document and five (5) twenty peso bills. Apart from this testimony, however, no other evidence was presented to support his denial. Neither the document nor the bills which were alluded to in Rogelio Mortos’ testimony were presented as exhibits for the defense. If there were any bills on record, they were the ones which were offered as evidence by the prosecution. Furthermore, accused did not even reveal to the Court the contents of the alleged document. We find that Rogelio Mortos’ denials did not successfully cast doubt on the

veracity of the testimony of prosecution's witnesses. "[T]he absence of evidence as to improper motive actuating the principal witnesses for the prosecution strongly tends to sustain the conclusion that no such improper motive existed, and that their testimony is worthy of full faith and credit." [6] Paraphrasing this Court's pronouncement in *People v. Arceo*, [7] we hold that appellant's denial of guilt, uncorroborated by any reliable evidence, cannot possibly overthrow the clear and convincing testimonies of the prosecution's witnesses as to his culpability. In *People v. Cruz*, [8] we also said: "We sustain the rule that police officers in buy-bust operations are entitled to the presumption of having acted pursuant to official duty. Their testimony is entitled to great respect."

The fact that accused-appellant was arrested during a buy-bust operation -- "x x x a form of entrapment employed by peace officers to trap and catch a malefactor in flagrante delicto" [9] -- has been established. Since accused-appellant was caught in flagrante delicto, the arresting officers were not only authorized, but were under obligation to apprehend him even without a warrant of arrest. [10] Thus, the arrest of accused-appellant falls within paragraph (a) of the aforequoted provisions of the Rules of Court. [11]

[S]ince appellant's arrest was lawful, it follows that the search made incidental to the arrest was also valid. [12] This is in accordance with Sec. 12, Rule 126, Revised Rules of Court which provides inter alia:

"Sec. 12. Search Incident to a Lawful Arrest. - A person lawfully arrested may be searched for dangerous weapons or anything which may be used as proof for the commission of an offense, without a search warrant."

From the foregoing, it necessarily follows that because the marijuana and the marked money were taken from the accused during a valid arrest following entrapment, they can be legally admitted as evidence against herein accused-appellant.

ACCORDINGLY, this appeal is DISMISSED and the decision appealed from is hereby AFFIRMED.

SO ORDERED.

Feliciano, (Chairman), Bidin, Melo, and Vitug, JJ., concur.

[1] Usaping Kriminal Blg. 90-5163, December 3, 1991; penned by Judge Rogelio L. Angeles.

[2] TSN, August 12, 1991, p. 4.

[3] Rollo, pp. 29-31.

[4] Rollo, p. 50.

[5] Section 5.- Arrest without a warrant; when lawful.- A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) hereof, the person arrested without a warrant shall be forthwith

delivered to the nearest police station, and he shall be proceeded against in accordance with Rule 112, Section 7.

[6] *People v. Blas*, G.R. No. 97930, May 27, 1992, 209 SCRA 339.

[7] G.R. No. 92019, September 30, 1991, 202 SCRA 170.

[8] G.R. No. 87884, November 4, 1992, 215 SCRA 339.

[9] *People v. del Pilar*, G.R. No. 86360, July 28, 1990, 188 SCRA 37.

[10] See *People v. Paco*, G.R. No. 76893, February 27, 1989, 170, SCRA 681, citing *Alvero v. Dizon*, 76 Phil. 637 (1946) and *People v. Claudio*, G.R. No. 72564, April 15, 1988.

[11] In *People v. Acuram*, G.R. Nos. 98423-24, May 22, 1992, 209 SCRA 281, we held:

“As the law allows warrantless arrests when a crime has just been committed, it was not imperative for the arresting officers to obtain a search warrant or a warrant of arrest. It is of judicial notice that in the arrest of a violator of the Dangerous Drugs Act as a result of a buy-bust operation, the offender is invariably caught red-handed. Hence, the admissibility of the seized marijuana is beyond question.

[12] *People v. Paco*, *Ibid.*

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