

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PAUL BANDIN Y NARCISO @ “ABLING”; ACCUSED-APPELLANT.

G.R. No. 104494. September 10, 1993

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

This case involves a buy-bust operation of the Narcotics Command (NARCOM) in Daraga, Albay.

Appellant Paul Bandin y Narciso alias "Abling" was charged in Branch VII of the Regional Trial Court of Albay for violation of Section 4, Article II (drug pushing) of Republic Act No. 6425, as amended, allegedly committed at around 3:20 p.m. on June 24, 1991.

On November 27, 1991, the trial court rendered judgment, the dispositive part of which provides:

"WHEREFORE, the guilt of the accused having been proved beyond reasonable doubt, accused Paul Bandin y Narciso alias Abling is hereby convicted of the offense charged, and is sentenced to suffer the penalty of life imprisonment and to pay a fine of P20,000.00 without subsidiary imprisonment in case of insolvency, and to pay the costs. The tea bag of marijuana (Exhibit B) and the stick of marijuana cigarette (Exhibit C) are hereby ordered to be destroyed, the same not subject of lawful commerce." (p. 19, Rollo.)

The accused appealed to the Court of Appeals but in view of that court's opinion that the imposable penalty should be life imprisonment, it certified the case to this Court as provided in Section 17(4) of the Judiciary Act, as amended by RA 5440.

In the afternoon of June 24, 1991, an informer reported to the office of the 5th Narcotics Regional Unit, NARCOM, PNP, stationed at Camp Simeon Ola (then Camp Bagong Ibalon) in Legazpi City that drug traffick-ing by a pusher named "Abling" was rampant at Bagtang Terminal, Daraga, Albay.

Upon receipt of the report, the Commanding Officer of the NARCOM organized a "buy-bust" operation to be led by Sgt. Felipe Tuzon, Jr., to whom marked money bills amounting to P20.00, bearing serial numbers: QR738352 (P10.00), WA 837855 (P5.00), and ZN121085 (P5.00) were given to be used in the purchase of marijuana ciga-rettes. The raiding team composed of Staff Sgt. Felipe Tuzon, Staff Sgt. Evangelico Intia, Sgt. Galvan and Sgt. Tugado, with the informer in tow, proceeded to the Bagtang Terminal and strategically positioned themselves.

The informer approached the appellant, Paul Bandin alias "Abling," who was seated in a trimobile, and asked him if he had marijuana for sale. The appellant replied that he had.

The informer left and returned after a short while with Sgt. Tuzon, who, acting as poseur-buyer, bought a tea bag of marijuana (Exh. B) from the appellant. As payment, Sgt. Tuzon gave him the marked bills amounting to P20.00 (Exhs. E, E-1, and E-2).

Thereafter, Sgt. Tuzon Jr. gave the pre-arranged signal to his companions by combing his hair. The latter approached the appellant and introduced themselves as NARCOM agents. A body search was conducted on the appellant which resulted in the recovery from him of the marked money bills and a stick of marijuana ciga-rette (Exh. C).

The appellant was brought to the NARCOM office for investigation and there, Sgt. Tuzon prepared a document known as a Receipt of Property Seized (Exh. F or 4) which was signed by the appellant (Exh. F-3 or 4-A). CIC Orlando Deria prepared a Booking Sheet and Arrest Report (Exh. G or 5), which the appellant, unassisted by counsel, signed (Exh. G-1 or 5-A).

Sgt. Tuzon made an initial field test of the confiscated evidence (Exh. B) by burning a small quantity of it, as shown in the Certificate of Initial Field Test (Exh. H or 3) which reads in part:

"Field Test conducted on the above-mentioned specimen gave POSITIVE result to the test as Marijuana, a prohibited drugs.

"This certification is issued for inquest of said case pending final result of the Laboratory Examination which will be conducted by the PNP Crime Laboratory, Region 5, Camp Bagong Ibalon, Legazpi City." (p. 14, Exh. H, Records.)

On June 25, 1991, Sgt. Tuzon, Jr. forwarded to the PNP Crime Laboratory one (1) small transparent cellophane bag containing "suspected marijuana dried leaves" (Exh. B) and "one stick of suspected marijuana ciga-rette" (Exh. C), as indicated in his letter request (Exh. A).

The Chemistry Report No. D-157-91 (Exh. D or 1) of the forensic chemist shows that the qualitative examination that was conducted on the specimens "gave POSITIVE results to the tests for MARIJUANA," and the conclusion was that "the above-mentioned specimens are "MARIJUANA" (prohibited drug)."

In his appeal of the trial court's decision to this Court, the appellant alleges that the trial court erred:

1. in admitting in evidence Exhibit F (Receipt of Property Seized) and Exhibit G (Booking Sheet and Arrest Report), the same having been signed by the accused without the assistance of counsel;
2. in admitting in evidence the tea bag of marijuana, the marijuana stick and the marked money despite the fact that they were obtained through an illegal search;
3. in giving credence to the testimony of the forensic chemist; and
4. in finding the accused guilty beyond reasonable doubt of the offense charged, imposing upon him the penalty of life imprisonment and ordering him to pay a fine of twenty thousand pesos and the costs.

With regard to the appellant's signature on the Booking Sheet and Arrest Report (Exh. G), the Court reiterates its ruling in *People vs. Rualo*, 152 SCRA 635, that when an arrested person signs a Booking Sheet and Arrest Report at a police station, he does not admit the commission of an offense nor confess to any incriminating circumstance. The Booking Sheet is merely a statement of the accused's being booked and of the date which accompanies the fact of an arrest. It is a police report and may be useful in charges of arbitrary detention against the police themselves. It is not an extra-judicial statement and cannot be the basis of a judgment of conviction.

With regard to the Receipt of Property Seized (Exh. F), the appellant's contention that his signature on the document is inadmissible as evidence because it was given without the assistance of counsel, is correct.

In the cases of *People vs. Mauyao*, 207 SCRA 732 and *People vs. Turla*, 167 SCRA 278, we held that the signature of the accused-appellant on the Receipt of Property Seized is a declaration against his interest and a tacit

admission of the crime charged, for mere unexplained possession of prohibited drugs is punished by law. The signature of the accused-appellant on the receipt is tantamount to an uncounselled extra-judicial confession outlawed by the Bill of Rights (Sec. 12[i], Art. III, 1987 Constitution). It is, therefore, inadmissible as evidence for any admission wrung from the accused in violation of his constitutional rights is inadmissible against him.

Nevertheless, despite the exclusion of the Receipt of Property Seized, the guilt of the appellant has been established beyond reasonable doubt by other evidence in the record.

The clear and convincing testimonies of the apprehending officers prevail over the appellant's denials, for the records do not show that his arrest was motivated by other than the desire of the police officers to curb the vicious drug traffic in Daraga, Albay.

Courts generally give full faith and credit to police officers for they are presumed to have performed their duties in a regular manner (Rule 131, Sec. 5[m], Rules of Court). Their testimonies may not be cast aside where there is no showing that the arrest of the accused was a mere "frame up" or an extortionate undertaking of the police.

A buy-bust operation is a method employed by police authorities to catch malefactors in the act of committing the crime of drug vending. It is essentially a form of entrapment, a procedure not prohibited by the Revised Penal Code (People vs. Marcos, 165 SCRA 154; People vs. Ramos, Jr., 203 SCRA 237).

The accused was caught in flagrante delicto for he was carrying marijuana, hence, committing a crime, at the time of his arrest. The warrantless search which was conducted following a lawful arrest, was valid (People vs. Tangliben, 184 SCRA 220).

The lower court did not err in giving credence to the findings of the forensic chemist. The tea bag of marijuana and the marijuana stick were examined by the forensic chemist a little more than a week after it was submitted by Sgt. Tuzon for examination. Appellant contends that the delay in the laboratory examination left the specimens open to possible tampering by police officials or a possible mix-up with other tea bags of marijuana waiting to be tested by the forensic chemist.

It is also contended that the testimony of the forensic chemist should be considered incompetent because the complaint was filed before the tests were made and, therefore, said tests were outside the scope of the complaint.

These contentions are untenable. An initial field testing was made by Sgt. Tuzon on the confiscated tea bag and marijuana stick. Having determined the specimens to be marijuana, the NARCOM properly filed an information against the appellant even before the specimens had been tested by the forensic chemist.

The field test conducted by Sgt. Tuzon is judicially admissible. This Court has held that a chemical analysis is not an indispensable prerequisite to the establishment of whether a certain substance offered in evidence is a prohibited drug. The ability to recognize these drugs can be acquired without a knowledge of chemistry to such an extent that testimony of a witness on the point may be entitled to great weight. Such technical knowledge is not required, and the degree of familiarity of a witness with such drugs only affects the weight and not the competency of his testimony (U.S. vs. Sy Liongco, 33 Phil. 53; People vs. Enrique, 204 SCRA 674; People vs. Dekingko, 189 SCRA 512).

Sgt. Tuzon has been a member of the NARCOM for sixteen (16) years. He had taken part in numerous buy-bust operations during the time he was with the said command (pp. 27-28, tsn, August 12, 1991). We see no reason to question his familiarity with prohibited drugs based on his wide experience in the field.

The contention that the specimens were possibly tampered or mixed up with other samples while in the crime laboratory is remote. Mere conjecture is not proof.

The trial court properly found the accused guilty beyond reasonable doubt of the crime charged. Its assessment of the credibility of the witnesses is entitled to great respect and the highest consideration (People vs. Tangliben, 184 SCRA 220; People vs. Marcos, 185 SCRA 154).

WHEREFORE, the decision of the trial court is hereby AFFIRMED in toto, with costs against the appellant.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Bellosillo, and Quason, JJ., concur.

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