

PEOPLE OF THE PHILIPPINES, PLAINTIFF APPELLEE, VS. ROLANDO GONZALES Y LAYSON, ACCUSED APPELLANT.

G.R. No. 105689. February 23, 1994

Ponente: BIDIN, J.

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BIDIN, J.:

Appellant Rolando L. Gonzales was charged before the Regional Trial Court of Valenzuela, Metro Manila, Branch 172 with violation of Section 4, Article II of Republic Act No. 6425 otherwise known as the Dangerous Drugs Act of 1972 as amended, in an information which reads:

"That on or about the 26th day of November, 1991 in Valenzuela, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law did then and there wilfully, unlawfully and feloniously sell and deliver to PO3 RENATO FLORANO y PEREZ, who posed as buyer, dried marijuana leaves, knowing the same to be a prohibited drugs (sic).

Contrary to law." (Rollo, p. 3)

Upon arraignment, appellant pleaded not guilty to the charge and trial on the merits thereafter ensued.

The facts of the case as summarized by the Solicitor General are as follows:

"On November 26, 1991, at about 3:20 pm, an information was received at the Dona Ata Police Sub-Station, Valenzuela, Metro Manila that marijuana was being sold publicly at P. Deato Street, Marulas, Valenzuela, Metro Manila.

"A 'buy-bust' team was then formed by SPO 4 Jacinto Cruz, composed of prosecution witness PO3 Renato Florano, SPO 1 Enrique Dabu and Pat. Arnel Rosete. PO2 Florano was to act as the poseur-buyer.

The buy-bust team then proceeded to P. Deato St. Marulas, Valenzuela, Metro Manila and arrived thereat at about 3:30 pm. There they saw appellant Rolando Gonzales conversing with two other persons.

PO3 Florano approached appellant and told the latter that he (Florano) wanted to buy marijuana, at the same time handing to appellant one ten-peso bill.

After receiving the money from PO3 Florano, appellant went inside a house located in a compound and returned three minutes later with the marijuana. PO3 Florano then introduced himself as a police officer, called his other companions and arrested appellant and the two persons earlier seen talking with appellant. The money previously given to the appellant was recovered from his right pocket.

The marijuana confiscated from appellant was submitted to the National Bureau of Investigation for examination and found to be positive for marijuana." (Rollo, pp. 119-120)

At the trial, the prosecution presented three (3) witnesses, namely PO3 Renato Florano, PO3 Frederico Patag and NBI Forensic Chemist Julieta Flores. PO3 Florano testified on the events of the buy-bust operation which culminated in the arrest of appellant while Flores testified on the results of the chemical examination she

conducted on the contents of the plastic bag handed by appellant to Florano which she found positive for marijuana. Patag merely testified on the investigation he conducted on appellant after the latter's arrest.

The defense on the other hand, presented accused-appellant as its sole witness, who presented a totally different version of the circumstances surrounding his arrest.

Appellant's version of the events that led to his arrest purports to show that at about 3:30 p.m. on November 26, 1991, while he was alone outside the front yard of their house at P. Deato Street, Marulas, Valenzuela, Metro Manila, police officers led by PO3 Florano picked him up and made him board an owner-type jeepney owned by PO1 Dabu. Aboard the jeepney were two persons allegedly earlier apprehended by the group of Florano.

Appellant claims that on the way to the police sub-station, said police officers forced him to admit that he sold marijuana to the two (2) other persons aboard the owner-type jeepney, which he allegedly refused to do. The police officers, however, persisted on their demand and because of his continued refusal to admit, brought him to the police station where he was charged with the violation of Section 4, Article II of RA No. 6425.

After trial, judgment was rendered convicting the accused of the crime charged, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, the court finds the accused guilty of violation of Section 4, Art. II of R.A. 6425 and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and a fine of P 20,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs. The marijuana subject of this case is ordered confiscated in favor of the government.

"SO ORDERED." (Rollo, p. 12)

Appellant appeals from the aforementioned decision of the court a quo and assigns the following errors:

I

"THE TRIAL COURT ERRED IN NOT RULING THAT THE TESTIMONY OF PROSECUTION'S PRINCIPAL WITNESS PO3 RENATO FLORANO WAS SO INCONSISTENT WITH HUMAN EXPERIENCE THAT IT CANNOT SUPPORT A JUDGMENT OF CONVICTION.

II

"THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT." (Rollo, p. 30)

Appellant assails the credibility of the testimony of PO3 Florano considering that it was the only basis for his conviction. Appellant contends that it is highly unbelievable that he would readily sell marijuana to PO3 Florano who is known to him to be a police officer. The ease with which Florano allegedly bought marijuana from him, renders the former's testimony suspect. The foregoing circumstances, appellant claims, are so inconsistent with human experience and the natural order of things and therefore cannot be made the basis for a judgment of conviction.

Appellant likewise assails the validity of the buy-bust operation given that it was allegedly conducted solely at the instance of PO3 Florano who acted as the poseur-buyer and the arresting officer at the same time. It is further claimed that there was no evidence presented showing the regularity of such operation. Appellant points to the fact that no documentation was ever presented showing that the operation was authorized by a superior officer.

It is evident, therefore, that the resolution of this case hinges on the issue of credibility. Once again, we reiterate

the well-entrenched rule that the findings of the trial court regarding the issue of credibility of witnesses and their testimonies are entitled to great respect and are accorded the highest consideration by appellate courts (*People v. Quilaton*, 205 SCRA 279 [1992]). The matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who, unlike appellate magistrates, can weigh such testimony in the light of the declarant's demeanor, conduct and attitude at the trial and is thereby placed in a more competent position to discriminate between the true and false representations (*People v. Babac*, 204 SCRA 968 [1991]).

In the case at bar, the trial court, after evaluating the evidence before it, found the testimony of PO3 Florano credible and convincing, as follows:

"The prosecution has only one witness here, PO3 Renato Florano whose testimony in Court tally in details with his statement (Exs. G, G-1, G-2) although in the said statement of Florano, it is said that the accused handed to him the marijuana leaves. His testimony is credible and positive and it satisfies the Court beyond reasonable doubt to convict the accused."

We find no compelling reason to overturn the findings of the trial court. After a careful reading of the records, the Court finds the testimony of PO3 Florano regarding the buy-bust operation, which resulted in the apprehension, prosecution and subsequent conviction of appellant to be direct, clear and forthright. Being totally untainted by contradictions in any of the material points, it deserves credence. Appellant's contention that Florano's testimony on the buy-bust operation is uncorroborated is of no moment.

Well-settled is the rule that the testimony of a lone prosecution witness, as long as it is credible and positive, can prove the guilt of the accused beyond reasonable doubt (*People v. Abelita*, 210 SCRA 497 [1992]).

Appellant therefore cannot discredit the testimony of PO3 Florano. Aside from the clear and convincing evidence presented by the prosecution, nothing in the records tend to show that the police officers were actuated by improper motives in apprehending accused-appellant. Police officers are presumed to have regularly performed their duties in the absence of evidence showing the contrary.

Appellant's claim that it was impossible for him to have sold marijuana to PO3 Florano knowing him to be a police officer is patently without merit. Aside from its lack of corroboration, appellant's contention is a matter which can be so easily contrived, for all that appellant has to do is to affirmatively declare knowledge of the identity of the peace officer/poseur-buyer and seek refuge in this self-serving contention. On the other hand, PO3 Florano's testimony is to the effect that appellant is a stranger to him (Florano)

Even assuming arguendo that said knowledge and/or recognition of Florano by appellant is true, what matters in drug-related cases is not the existing familiarity between the seller and the buyer, but their agreement and the acts constituting the sale and delivery of the prohibited drugs (*People v. Jaymalin*, 214 SCRA 685 [1991]). Drug pushers, especially small quantity or retail pushers, sell their prohibited wares to anyone who can pay for the same, be they strangers or not (*People vs. Madriaga*, 211 SCRA 711 [1992]).

The fact that appellant returned with the plastic bag of marijuana after receiving a certain amount from the police officer who acted as poseur-buyer shows his willingness to enter into a transaction of selling and delivering the prohibited drug. This willingness in turn, shows that he opted to take the risk of being brought into the folds of the law.

Equally untenable is appellant's assertion regarding the irregularity of the buy-bust operation for allegedly having been conducted solely at the instance of PO3 Florano. There is no fixed procedure for conducting buy-bust operations (*People v. Cruda*, 211 SCRA 125 [1992]). Contrary to the submission of the appellant, we cannot see how the procedure adopted by the police officers in this case can nullify the end results of said buy-bust operation

or defeat the application of the presumption of regularity in the performance of their official duties as earlier stated. The records show no irregularity in the conduct of the buy-bust operation which may exculpate the accused. If a police operation has to be conducted immediately, as in this case, time is of the essence. Consequently, not every contingency could be anticipated and provided for. What is important is the fact that the rights of the accused-appellant, from the moment of his apprehension to filing of the information against him were shown to have been fully protected.

WHEREFORE, the appealed judgment is hereby AFFIRMED. Costs against appellant.

SO ORDERED.

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

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