

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIMON PETILLA II Y MOTABATO, ACCUSED-APPELLANT.

G.R. No. 107948. April 12, 1994

Ponente: KAPUNAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-107948/>

KAPUNAN, J.:

Convicted for violation of Section 4, Article II of Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, accused-appellant interposes the present appeal.

An information[1] was filed with the Regional Trial Court of Davao City against accused-appellant Felimon Petilla II y Motabato which reads as follows:

"That on or about March 14, 1992, in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, the above named accused willfully, unlawfully and feloniously and without having been authorized by law, sold 49 sticks of marijuana leaves, a prohibited drug."

Upon arraignment, accused-appellant through counsel pleaded not guilty to the crime charged.

After trial on the merits, a decision[2] was rendered convicting accused-appellant, the dispositive portion of which reads:

"WHEREFORE, finding Felimon Petilla II y Motabato guilty beyond reasonable doubt of (sic) violation of Section 4, Article II of the Dangerous Drugs Act of 1972, as amended by B.P. Blg. 179, as charged, he is hereby sentenced to suffer life imprisonment and pay a fine of P20,000.00; and to pay the costs.

"The 47 marijuana cigarette sticks (Exhs. A-1 to A-47) are hereby confiscated in favor of the government and shall be destroyed without delay.

SO ORDERED."[3]

The facts as brought out by the evidence for the prosecution are as follows:

A mobile patrol of Davao Metrodiscom arrested a certain Allan Amora on the night of March 14, 1992 for illegal possession of marijuana. After the arrest, the police officers brought Amora to the Intelligence Division of the Davao Metrodiscom and there Amora revealed that he bought the marijuana from a certain "Bro." Hence, a buy-bust team was immediately created to entrap "Bro," the person alleged to have sold the marijuana to Amora.

The buy-bust team was composed of Capt. Zosimo Yu as the leader, SPO1 Billy Echon, SPO3 Joselito Baradas and SPO3 Marlon Pinute as members. Amora was designated as the poseur-buyer. The team forthwith went to Bonifacio Extension, the place where the mobile patrol earlier arrested Amora.

Upon reaching Bonifacio Extension at 7:45 o'clock P.M., SPO3 Pinute positioned himself about 5 to 7 meters from where Amora and SPO1 Echon were. About a minute later, a person called "Bro," whose real name turned out to be Felimon Petilla III, appeared. SPO1 Echon and Amora then gave P200.00 to "Bro," who told them to

wait beside the electric post nearby. "Bro" then proceeded to the interior of Bonifacio Extension where there was a cluster of small houses. However, instead of staying near the electric post SPO1 Echon and Amora went to a store nearby. At that moment, a certain alias "Boy," herein accused-appellant, appeared near the store.

After 15 minutes, "Bro" returned with a package wrapped in newspaper. "Bro" directly handed the package to accused-appellant who then approached SPO1 Echon and Amora at the store. It was at this point when SPO1 Echon grabbed the hand of accused-appellant and instructed the other members of the team to pursue "Bro." Unfortunately, "Bro" ran towards the public market and disappeared in the crowd.

Specimen samples from each of the 47 cigarette sticks were brought to the PNP Crime Laboratory, Davao City for examination. Forensic Analyst Salome Jose found the specimens positive for marijuana.

The accused-appellant, on the other hand, testified that in the evening of March 14, 1992, he and one William Gitacay, a boarder at his house located at 234 Bonifacio Street Extension, went to dispose of garbage in front of the Mabini Public Market. On their way home, they were accosted by policemen who inquired where they came from. Accused-appellant answered that they went to throw some garbage. One of the policemen held accused-appellant's arm and told him to wait inside the patrol car. The policeman then rummaged through the garbage pile, but did not find anything there. Accused-appellant and Gitacay were then brought to the PC barracks where they met Amora for the first time. Amora was holding a marijuana cigarette stick wrapped in a piece of paper. Amora told the police investigator that accused-appellant was the source of the marijuana. The investigator then brought accused-appellant to a dark room at the back of the Police Headquarters where he tried to force him (accused-appellant) to admit that he sold marijuana to Amora. Accused-appellant denied the imputation. However, the policeman slapped him several times and poked a gun into his mouth. Despite the threat, accused-appellant steadfastly denied that he ever sold marijuana to Amora.

Gitacay corroborated accused-appellant's testimony. Gitacay averred that he was a boarder in the house of accused-appellant; that he and accused-appellant were together at 8:00 o'clock P.M. on March 14, 1992 disposing of some garbage at the Mabini Public Market, but on their way back, they were apprehended by policemen. Gitacay also testified that he and the accused were then brought to Camp Domingo Leonor. Thereafter, Gitacay was released but the accused-appellant continued to be detained.

Accused-appellant assigns the following as errors of the trial court:

I.

IN DECLARING THE APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SEC. 4 ARTICLE II OF THE DANGEROUS DRUGS ACT OF 1972 AS AMENDED BY B.P. BLG. 179.

II.

IN FINDING APPELLANT SELLING 47 STICKS OF MARIJUANA.

III.

IN NOT HOLDING FELIMON PETILLA III ALIAS BRO AS THE SELLER OF 47 STICKS OF MARIJUANA.[4]

The appeal is impressed with merit.

There is no evidence at all that accused-appellant sold, delivered or otherwise committed an act violative of the Dangerous Drugs Act. What was only proved by the prosecution was that the package wrapped in a newspaper

was handed by "Bro" to accused-appellant who, in turn, approached the police officers with the package. It was at this juncture that SPO1 Echon grabbed accused-appellant's hand and arrested him. There is nothing to show that accused-appellant knew of the contents of the package.

Accused-appellant's main argument is that the package wrapped in a newspaper was only handed to him by his brother and there is no evidence to indicate that accused-appellant knew of its contents.

Section 4, Article II, of R.A. No. 6425, otherwise known as the Dangerous Drugs Act of 1972 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 broker in any 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)

Section 2 (f) of Article I of the same law defines the word "deliver", thus:

"(f) 'Deliver' - refers to a person's act of knowingly passing a dangerous drug to another personally or otherwise, and by any means, with or without consideration."

The case for the prosecution was woven principally from the testimony of SPO1 Echon. This witness declared:

"Q. And while you and Allan Amora were in the nearby store where were the other members of the team situated?

A. They were in the dark area which has a distance of 7 meters from me.

Q. How many meters were you or how long have you been in the nearby store before Allan Amora returned. . . I will reform, Your Honor. How long were you in the nearby store before alias Bro returned from the cluster of houses?

A. About 15 minutes.

Q. Now, when Allan Amora delivered the P200.00 to alias Bro, were there companions of alias Bro?

A. None, sir.

Q. So, at that time when you met alias Bro with Allan Amora at the electric post along Bonifacio Extension and the P200.00 amount was delivered to alias Bro by Allan Amora, alias Bro was alone and he was never accompanied by any other person?

A. None, sir.

Q. You said that it took 15 minutes for alias Bro to return from the time ... to return from the cluster of houses inside Bonifacio Extension, when alias Bro returned was he accompanied by some persons?

A. No, sir.

Q. He was alone when he returned and that was the time when you arrested or held the hand of alias Boy?

A. When he arrived he gave marijuana to Boy and when he went near us I arrested Boy.

Q. So, you saw alias Bro holding marijuana and delivering the said marijuana to alias Boy, is that what you mean?

A. Yes, sir.

Q. And after you saw that alias Boy was already holding the marijuana which was handed by alias Bro that was the time you held the hand of alias Boy, is that correct?

A. Yes, sir.

COURT:

Q. When alias Boy arrived, where were you and alias Bro went? (sic)

A. When alias Bro arrived, alias Boy was there but I do not know him.

Q. You mean they arrived at the store together?

A. When alias Bro arrived he handed the stuff to alias Boy and alias Boy went near us and this alias Bro left.

x x x

COURT:

Q. You show the court how it looked when it was handed over by alias Bro to the accused.

(WITNESS WRAPPING THE MARIJUANA WITH THE NEWSPAPER AND FOLDING BOTH ENDS OF THE NEWSPAPER)

Q. So, from where you were looking at the time this Exh. A-48 was handed over by alias Bro to Alias Boy, you cannot tell what is inside because of this newspaper wrapper, is that correct?

A. I know, sir, because I was told by Allan that it was marijuana.

x x x

Q. Now, at the time this was handed by Alias Bro to Alias Boy, can you see what is inside this wrapped newspaper?

A. I saw it handed to Alias Boy.

Q. You did not see what was wrapped inside the wrapper?

A. No."[5]

From the foregoing testimony, there is nothing therein from which to draw any reasonable conclusion that accused-appellant knew of the contents of the package handed to him by Felimon Petilla III alias "Bro" who happens to be his brother. There is no evidence pointing to a conspiracy between "Bro" and the accused-appellant in the attempt to sell marijuana to the poseur-buyer and police officers. For that matter, there was no agreement or arrangement whether express or implied, direct or indirect, between the police officers and accused-appellant on the drug deal. Accused-appellant did not solicit or receive the marked money. The only participation of the accused-appellant, after the package was given to him by "Bro," was to approach SPO1 Echon and Amora with the manifest purpose of handing the same to them. The package did not stay in the possession of accused-appellant for more than a few fleeting seconds. There is not even a hint that there was a conversation between accused-appellant and "Bro" wherein the former was apprised of the contents of the package.

It is significant to note that while accused-appellant was charged in the information with the offense of selling marijuana, the evidence for the prosecution tended to establish that he was caught in the act of "delivering" the prohibited drug.

Under Section 2(b) of the Dangerous Drugs Act, it is required that the offender knowingly delivered a dangerous drug to another. The prosecution miserably failed to prove that accused-appellant had knowledge of the contents of the package.

In *People vs. Libag*, 184 SCRA 707 we made the following pronouncement:

"Finally, the information accused Roberto Libag of the 'attempt to sell, deliver, give away to another and distribute three (3) kilos of marijuana flowering tops, a prohibited drug well-knowing that the sale, delivery and distribution to another of such drug is prohibited x x x.

"It is basic that in a criminal case, the prosecution avers the guilt of the accused who is presumed to be innocent until the contrary is proved. Therefore, the prosecution must prove such guilt by establishing the existence of all the elements of the crime charged. In so doing, the prosecution must rely on the strength of its own evidence, not on the weakness of the defense. Clearly, one of the elements of the offense is that the accused knowingly delivered a dangerous drug to another. The prosecution must prove knowledge of the accused, not that he knew that marijuana is classified as a dangerous drug, but that he knew as marijuana the contents of the plastic bag he delivered."

Well-settled is the doctrine that where inculpatory facts are susceptible of two interpretations, the interpretation that will lead to acquittal must be sustained.[6]

WHEREFORE, finding accused-appellant Felimon Petilla II innocent of the crime charged against him, the appealed decision is REVERSED and accused-appellant is hereby ACQUITTED on reasonable doubt.

SO ORDERED.

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

[1] Records, p. 1.

[2] Records, pp. 36-41.

[3] Id. at p. 41.

[4] Appellant's Brief, p. 5, Rollo, pp. 23-24.

[5] T.S.N., June 15, 1992, pp. 28-31, taken by Dora Raagas, T.S.N., June 15, 1992, pp. 4-5, taken by Virgilia Librea.

[6] *People vs. Alzaga*, 177 SCRA 644.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.