

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HECTOR MARIANO Y TENGCO, ACCUSED-APPELLANT.

G.R. No. 133990. June 26, 2001

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal from the decision[1] of the Regional Trial Court, Branch 276, Muntinlupa City finding accused Hector Mariano y Tengco guilty beyond reasonable doubt of possession of methamphetamine hydrochloride (shabu),[2] a regulated drug, and sentencing him to life imprisonment.

On September 21, 1995, Senior State Prosecutor Theodore M. Villanueva filed with the Regional Trial Court, Branch 276, Muntinlupa City an Information[3] charging accused with violation of Section 16, Article III, R. A. No. 6425, as amended, to wit:

“That on or about August 10, 1995 in the City of Muntinlupa and within the jurisdiction of this Honorable Court above-named accused did then and there, wilfully, unlawfully, feloniously and knowingly have in his possession, custody and control three hundred forty two and point four (342.4) grams more or less of methamphetamine hydrochloride (shabu), a regulated drug, without any prescription, authority, permit or license from the government to have and possess such regulated drug.

“CONTRARY TO LAW.”

On November 9, 1995, upon arraignment, the accused pleaded not guilty.[4] Forthwith, trial ensued.

On August 3, 1995, P/Sr. Insp. Joselito M. Daniel received an information that a certain Oscar G. Sanga, or “Oca” was engaged in the illegal traffic of dangerous drugs. P/Sr. Insp. Daniel relayed the information to P/Chief Inspector Joel D. Pagdilao, who ordered the formation of a buy-bust team to be headed by P/Sr. Insp. Daniel.[5]

P/Sr. Insp. Daniel and the confidential informant proceeded to the house of Oscar Sanga. P/Sr. Insp. Daniel presented himself as a buyer of shabu, and that he was buying three (3) kilos. Oscar Sanga quoted the price at P950,000.00 per kilo. They agreed that the sale would take place at the house of the confidential informant in Mintcor Subdivision, Alabang in the morning of August 8, 1995.[6]

After two failed attempts, the sale finally took place in the early morning of August 10, 1995. Oscar Sanga arrived past 12:00 midnight on board a green KIA Pride with Plate No. TLK-560. His driver remained inside the car, while Oscar Sanga and P/Sr. Insp. Daniel proceeded to the garage. Oscar Sanga asked P/Sr. Insp. Daniel if he had the money, and when he answered in the affirmative, Oscar Sanga went to the KIA Pride car and took out a black and white Felix the Cat pillowcase from the back seat. He tore the pillowcase open and removed two plastic bags containing some white crystalline substance. At this point, P/Sr. Insp. Daniel beeped his Voyager, a two-way radio transmitter, as a pre-arranged signal to the other members of the team who were strategically positioned within the vicinity.[7]

The team immediately rushed to the garage. P/Sr. Insp. Daniel and PO2 Francisco T. Duran apprehended Oscar

Sanga, while SPO2 Ruben T. Manibo checked on the driver of the KIA Pride car, later identified as accused Hector Mariano y Tengco. SPO2 Manibo confiscated a black belt bag from accused Mariano. The bag contained five (5) small plastic bags of shabu with a total weight of more or less 342.4 grams. SPO2 Manibo arrested accused Mariano.[8] Separate charges were filed against accused Sanga and Mariano.

However, on November 29, 1995, before SPO2 Manibo could testify, he was killed while conducting another buy-bust operation.[9] The prosecution was constrained to present the testimonies of P/Sr. Insp. Daniel and PO2 Duran against accused Mariano.

P/Sr. Insp. Daniel testified that SPO2 Ruben Manibo apprehended accused Mariano. He had no participation in the frisking of accused Mariano and has no knowledge whether the 342.4 grams of shabu were actually found in accused Mariano's possession.[10]

PO2 Duran testified that he assisted P/Sr. Insp. Daniel in apprehending Oscar Sanga. He claimed that, at the same time, SPO2 Manibo conducted a search on accused Mariano. SPO2 Manibo recovered five small pieces of plastic from the black belt bag which accused Mariano was then wearing.[11] While testifying in the court a quo, a black belt bag[12] was shown to PO2 Duran and he identified the same as the bag worn by accused Mariano.[13] During the cross-examination, accused Mariano's counsel asked accused to wear the belt bag, but the same did not fit his waistline.[14]

The prosecution dispensed with the testimony of the forensic chemist, Julieta C. Flores. Her qualification as an expert witness, the purpose of her testimony and her laboratory reports were the subject of a stipulation of facts.[15]

After the prosecution rested its case, the defense filed a demurrer to evidence, but the trial court by resolution dated November 27, 1997, denied the demurrer.[16] On December 16, 1997, accused Mariano filed a motion for reconsideration, but the trial court likewise denied the same.[17]

In the meantime, accused Mariano jumped bail prior to the filing of the motion for reconsideration. However, the bondsman subsequently surrendered him to the court on February 23, 1998.[18]

On April 28, 1999, the trial court rendered a judgment[19] sans defense evidence, the dispositive portion of which reads as follows:

“PREMISES considered, for Possession of Methamphetamine Hydrochloride in the quantity of 342.4 grams, Hector Mariano is found guilty beyond reasonable doubt, and is sentenced to suffer life imprisonment. He should therefore be committed to the New Bilibid Prison where he may serve his sentence.

“It is SO ORDERED.

“Muntinlupa City, April 16, 1998.

“(Sgd.) N. C. Perello
Presiding Judge”

Hence, this appeal.[20]

Accused-appellant Mariano contends that the trial court erred in convicting him on the basis of the uncorroborated testimonies of the prosecution witnesses.[21]

The Solicitor General contends that the prosecution witnesses' testimonies were credible and do not impair the fact that 342.4 grams of illegal drugs were seized from accused-appellant.[22]

We find the appeal meritorious.

No less than the Constitution mandates that an accused shall be presumed innocent until the contrary is proved. In criminal cases, the quantum of evidence required to overturn this presumption is proof beyond reasonable doubt.[23] It is that proof which produces moral certainty in an unprejudiced mind.[24] In a long line of cases, the Court has held consistently that where the inculpatory facts admit of several interpretations, one consistent with accused's innocence and another with his guilt, the evidence thus adduced fails to meet the test of moral certainty.[25]

It is incumbent upon the prosecution to prove, first, that a crime has been committed, and second, that the accused is responsible therefor.[26] In the case at bar, it is undisputed that five (5) pieces of small plastic bags containing shabu were seized during the buy-bust operation. However, there is want of evidence to establish the fact of possession of the same by accused-appellant Mariano, the very crime for which he was charged with. The testimony of PO2 Duran is vague on this point, thus:

Questions of the Court

Q:

When was the belt bag opened, while still in the waist of Mariano?

A:

Yes your honor.

Q:

And it was opened by Maniebo?

A:

Yes your honor.

Q:

While the belt bag was still tied around the waist of Mariano, it was opened by Maniebo?

A:

Yes your honor.

Q:

And after opening it he demanded that it be removed from his body?

A:

Yes your honor.

Q:

And accordingly Mariano removed it from his body?

A:

Yes your honor.

Q:

And what did Maniebo do with it? He immediately confiscated it?

A:

Yes your honor.

Q:

So the first time that you saw the contents of this belt bag was already when it was already at the station?

A:

No your honor, I saw it opened first by Ruben Maniebo during the time of arrest your honor.

Q:

But you did not see it open but therefore you did not see it when it was opened?

A:

No your honor I saw it when it was already opened.

Q:

But it was still in his body?

A:

Yes your honor.

Q:

And you are 3 feet away from Hector and Maniebo?

A:

Yes your honor.

Q:

And yet you were able to see the contents of that bag which were still tied around the waist of Maniebo?

A:

Yes, I saw it your honor.

xxx xxx xxx

Q:

So you only saw some plastic bag contained in the belt bag which was still tied to the body of Hector?

A:

Yes your honor.

Q:

But you cannot also tell the size of the belt bag?

A:

Yes your honor.

xxx xxx xxx

Q:

You only saw that there was plastic bag inside?

A:

Yes your honor.

Q:

So you do not know if all the plastic bag contained something?

A:

Yes your honor.[27]

PO2 Duran was very insistent that the plastic bags were found inside the belt bag which accused-appellant Mariano was then wearing after he was asked to alight from the car. But when accused-appellant Mariano was asked to fit the belt bag during the trial, the court had this to say:

Court – I cannot see how he grow (sic) his weight while under detention. Let the record show that when the belt bag was placed around to the waist of Hector Mariano it did not fit and there is still an allowance of about 3 inches between to the other (sic), and immediately Hector Mariano has been detained from August 1995 until date.[28]

The veracity of the allegation that accused was wearing the belt bag from which the plastic bags were taken thus became questionable. SPO2 Manibo would have been the best witness to testify on the charge against accused-appellant Mariano; unfortunately, he was killed in another buy-bust operation before he could take the witness stand. While his demise evokes sympathy from the Court, it may not be used as a justification for regarding the testimony of PO2 Duran as veritable, especially since it pertains to the very essence of the crime charged against accused-appellant Mariano.

Even assuming that accused-appellant was indeed wearing the belt bag, PO2 Duran was still not certain whether the plastic bags actually contained shabu.[29] The evidence, taken in its entirety, must be clear and convincing to prove an accused's guilt beyond reasonable doubt.[30] Otherwise, he is entitled to an acquittal.[31]

WHEREFORE, the appealed decision of the Regional Trial Court, Branch 276, Muntinlupa City, in Criminal Case No. 95-282 is hereby REVERSED. Accused-appellant HECTOR MARIANO y TENGCO is ACQUITTED of the crime charged, for lack of proof beyond reasonable doubt. The Director of Prisons is directed to forthwith release accused-appellant unless he is held for another case, and to inform the Court of his release within ten (10) days from notice.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, and Kapunan, JJ., concur.
Ynares-Santiago, J., on leave.

[1] In Criminal Case No. 95-282. Judge N. C. Perello, presiding (Original Record, pp. 249-251; Rollo, pp. 13-15).

- [2] A violation of Article III, Section 16, R. A. No. 6425 (Dangerous Drugs Act, as amended).
- [3] Original Record, pp. 1-2.
- [4] Original Record, p. 46.
- [5] TSN, June 13, 1996, pp. 3-4.
- [6] Ibid., pp. 5-6.
- [7] Ibid., pp. 6-19.
- [8] Ibid., pp. 20-21, 29; TSN, July 8, 1996, pp. 12-15.
- [9] TSN, July 8, 1996, p. 18.
- [10] TSN, June 13, 1996, pp. 28-29.
- [11] TSN, July 8, 1996, pp. 11-13.
- [12] Exh. "B".
- [13] TSN, July 8, 1996, pp. 14-15.
- [14] Ibid., p. 26.
- [15] Order dated June 10, 1996, Original Record, pp. 92-93; Order dated June 20, 1996, Original Record, pp. 114-115; TSN, June 17, 1996, p. 2.
- [16] The Demurrer to Evidence and the Resolution thereon are not attached to the records, but they were referred to in accused Mariano's Motion for Reconsideration filed on December 16, 1997 (Original Record, pp. 223-225).
- [17] Order dated February 10, 1998 (Original Record, p. 234).
- [18] Original Record, pp. 235, 244.
- [19] Decision, p. 3 (Original Record, p. 251).
- [20] Notice of Appeal, Original Record, p. 258.
- [21] Appellant's Brief, p. 7, Rollo, pp. 51-79, at p. 61.
- [22] Appellee's Brief, p. 5, Rollo, pp. 122-132, at p. 128.
- [23] Article III, Section 14 (2), Constitution.
- [24] Rule 133, Section 2, Revised Rules of Court.
- [25] People vs. Saturno, G.R. No. 126959, March 28, 2001.
- [26] Ibid., citing People vs. Canedo, G.R. No. 128382, July 5, 2000 and U.S. vs. Reyes, 3 Phil. 3 (1903).
- [27] TSN, July 8, 1996, pp. 27-29.
- [28] Ibid., p. 26.
- [29] TSN, July 8, 1996, p. 29.
- [30] People vs. Alicante, G. R. Nos. 127026-27, May 31, 2000.

[31] Froilan vs. Sandiganbayan, 328 SCRA 351, 361 (2000).

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