PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO ANTINERO BERIARMENTE, ACCUSED-APPELLANT.

G.R. No. 137612. September 25, 2001

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-137612/

YNARES-SANTIAGO, J.:

This is an appeal from the Decision of the Regional Trial Court of Barili, Cebu, Branch 60, in Criminal Case No. CEB-BRL-190, the dispositive portion of which reads:

> JUDGMENT is therefore rendered on the basis of the weight of the dried marijuana which is 1,500 grams, and pursuant to Republic Act 6425, Sec. 4, Article II, accused, Francisco A. Beriarmente, is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay a fine of Five Hundred Thousand Pesos (P500,000.00) which is the minimum. The Provincial Prosecutor is directed to turn over the marijuana leaves, subject of the case, to the Court within ten (10) days from receipt of this Decision.
>
> SO ORDERED.[1]

The prosecution's evidence showed that in the early morning of July 20, 1997, SPO2 Orlando Caballero, who was assigned at the Badian Police Station, was informed by a police informant that a certain person, later identified as the accused-appellant Francisco Beriarmente, was looking for buyers of a sack of marijuana plants.

At about the same time, a certain Randy Sinarlo was visiting with relatives in Badian, staying in the house of his uncle, SPO2 Marcial Sinarlo, who also happened to be detailed at the Badian Police Station. He overheard the informant's story about a person selling a sack of marijuana. He was convinced by his policeman uncle to pose as a buyer so they could arrest the prospective seller, who had been under surveillance for about a month.

Randy Sinarlo acceded and followed the instructions given him. First, he went with the informant to a restaurant owned by a certain Ferdinand Sabanal at the public market. After several drinks, he was introduced to accused Francisco Beriarmente. Together they rode on a tricycle, taking Sawang Street to the provincial road, stopping and alighting at the house of one Boy Bebelone. They were followed by SPO2 Caballero, SPO2 Marcial Sinarlo and other policemen.

In front of Boy Bebelone's house, accused Beriarmente handed over to Randy Sinarlo a straw sack that Beriarmente had picked up from a house along Sawang Street. As soon as the policemen saw the sack change hands, they arrested accused Beriarmente. They examined the contents of the sack and concluded that it contained marijuana plants, prompting them to confiscate the same. They then brought accused Beriarmente to the police station.

A bundle of the plants weighing 1,500 grams was subjected to scientific analysis at the PNP Crime Laboratory for Region 7. Police Inspector Mutchit Salinas, forensic analyst, submitted a report[2] certifying that the sample or specimen composed of one (1) bundle of fresh stalks, leaves, buds and seeds weighing 1,500 grams were indeed marijuana plants.

The prosecution witnesses identified accused Francisco Beriarmente in open court as the person who sold and handed over the sack of marijuana plants to witness Randy Sinarlo. The latter also identified the sack and its contents, which SPO2 Caballero had placed inside a plastic container, as the very same sack and marijuana plants that the accused sold and gave to him.

For his part, accused Beriarmente professed his innocence, testifying that on said occasion, he went to Badian not to sell a sack of marijuana plants, but to buy corn grits from a certain Tining. It was while he was inside the store of Tining that he was hailed by his cousin-in-law, Roel Beona, who invited him for a round of drinks. They proceeded to the restaurant of Ferdinand Sabanal, and when he was already feeling intoxicated, Roel Beona introduced him to Randy Sinarlo.

He was instructed by Roel Beona to get a sack from a certain Rosita and Mercado at a house along Sawang Street and to deliver said sack to the NFA Milling. He and Randy Sinarlo then rode a tricycle and he fetched the sack from Rosita as instructed. Without knowing the contents of the sack, he gave the same to Randy Sinarlo. On the way to the NFA area, they were intercepted by the police and he was arrested, while Randy Sinarlo was not apprehended. He was brought to the municipal building where the police tried to interrogate him. However, since the lawyer they assigned to him did not show up, the investigation did not push through. Thereafter, he was incarcerated in the municipal jail.

On September 18, 1997, the following Information was filed before the RTC of Barili, Cebu, Branch 60:

> That on the 20[th] day of July 1997 at 10:00 o'clock in the morning, more or less, at Barangay Poblacion, Municipality of Badian, Province of Cebu, 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 have in his possession, custody and control One and One Half (1½) Kilos of dried marijuana (subject of sale) weighing 1,500 grams, which when subjected to laboratory examination gave positive results for the presence of marijuana classified as a prohibited drug under the Dangerous Drugs Act of 1972 as amended.
>
> CONTRARY TO LAW.[3]

From the evidence and testimonies presented by the prosecution and the defense, the trial court culled the following conclusions:

> The testimony of witness Sinarlo to the effect that he pretended to buy marijuana (Indian Hemp) from the accused and that he accompanied him by riding on a trisikad in going to a house in Sawang, Badian, Cebu, to get the marijuana leaves and proceeded to the house of a certain Boy Bebelone, was clearly corroborated by the testimony of Patrolman Orlando Caballero. The testimony (sic) of both Sinarlo and Caballero is (sic) convincing and credible. The fact that the marijuana leaves were really marijuana was testified to and confirmed by Mutchit Salinas of the NBI laboratory.
>
> The version of the defense that he was innocent and that he did not know what was inside the sack is not convincing to the Court. It is improbable for one not to ask the person who was with him at the time what was the contents of the sack. He told the Court that he was just riding in the trisikad going to the house of a certain Bebelone as the wish of Randy Sinarlo that they will proceed there.
>
> The accused at the time of the arrest did not raise a single question as to why he is placed under arrest when he did not know what was inside the sack.
>
> Of the two (2) versions, the Court is inclined to believe that of the prosecution. The evidence of the prosecution is sufficient enough (sic) to sustain conviction. Positive testimony is superior and is more convincing than the denial by the accused himself.
>
> It is therefore the finding of this Court that the prosecution was able to prove the guilt of the accused beyond

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

reasonable doubt.[4]

Accordingly, accused Francisco Beriarmente was sentenced to suffer the penalty of reclusion perpetua and to pay a minimum fine of Five Hundred Thousand (P500,000.00) Pesos.

Hence, this appeal, raising the following errors:

I

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED WHEN IN TRUTH AND IN FACT THE PROSECUTION FAILED TO PRODUCE THE MONEY USED DURING THE BUY-BUST OPERATION.

II

THE LOWER COURT ERRED IN GIVING MUCH WEIGHT AND CREDENCE TO THE ALLEGATION OF THE PROSECUTION WITNESSES THAT THE ACCUSED WAS UNDER SURVEILLANCE FOR ONE MONTH BEFORE ITS ARREST WHEN THE PROSECUTION FAILED TO PRODUCE ANY SURVEILLANCE REPORT TO SUPPORT SAID ALLEGATION.

III

THE LOWER COURT ERRED IN CONVICTING ACCUSED OF VIOLATION OF SEC. 4 OF RA 6425, AS AMENDED BEYOND REASONABLE DOUBT.

After a thorough and careful review of the records of this case, we find that the guilt of the accused was sufficiently established by the evidence, and the trial court's judgment is well-supported by law and jurisprudence. We shall discuss the issues raised in this appeal to erase any doubt that the trial court may have erred in finding the appellant guilty of the crime charged.

The first issue refers to the buy-bust operation that was conducted by the police operatives to entrap the accused-appellant. He argues that there was no trial buy-bust operation because: (1) there was no trial buy-bust operation to validate the suspicion that accused was really engaged in the sale of illegal drugs; (2) the poseur-buyer used his own money to purchase the marijuana plants, not marked money; and (3) no marked money was presented as evidence in court.

The argument lacks merit. It is well-established that in the prosecution for the sale of illegal drugs, what is important is the fact that the poseur-buyer received the goods from the accused-appellant and the same was presented as evidence in court.[5] Neither is there a rule of law which requires that there must be a simultaneous exchange of the marked money and the prohibited drug between the poseur-buyer and the pusher.[6]

There is also no rule that requires the police to use only marked money in buy-bust operations. In fact, this Court has ruled that the failure to use marked money or to present it in evidence is not material since the sale cannot be essentially disproved by the absence thereof.[7] The non-presentation of the marked money does not create a hiatus in the evidence for the prosecution as long as the sale of the illegal drugs is adequately established and the substance itself is presented before the court.[8]

Likewise, there is no merit in accused-appellant's proposition that there must first be a test or trial buy-bust operation just to ascertain that the accused-appellant is really selling marijuana. In the case of People v. Tranca,[9] this Court held that there is no rigid or textbook method of conducting buy-bust operations. It is of judicial notice that drug pushers sell their wares to any prospective customer, stranger or not, in both public or private places, with no regard for time. They have become increasingly daring and blatantly defiant of the law.[10] Thus, the police must be flexible in their operations to keep up with the drug pushers. Practice buy-bust operations will not

only hinder police efforts to apprehend drug pushers, but would even render them inutile as these would only forewarn the drug pushers.

There is no question that the buy-bust operation conducted by the police in the case at bar was proper. There is no showing of irregularity in the conduct of the same. Consequently, the arrest of accused-appellant, though warrantless, falls squarely under Rule 113, Section 5(a) of the Rules of Court, which provides that a peace officer or private person may make an arrest, without a warrant, when the person to be arrested has committed, is actually committing, or is attempting to commit an offense, in his presence. The accused-appellant was caught in flagrante delicto as a result of a buy-bust operation conducted by the police on the basis of information received from a police asset that the accused-appellant was looking for a buyer. His arrest, therefore, was lawful and the sack of marijuana plants confiscated from him were admissible in evidence, being the fruits of the crime.[11]

On the second issue, the accused-appellant points out that there was no evidence that he was under surveillance for one (1) month before he was arrested. He stresses that there was no surveillance report nor entry in any logbook to prove that he was engaged in the illegal drug trade.

Again, we find no merit in this contention. In People v. Ganguso,[12] we held that prior surveillance is not a prerequisite for the validity of an entrapment or buy-bust operation. In the instant case, while the police testified that they had been observing the suspicious moves of the accused-appellant for about one (1) month, the same is not negated by the absence of a surveillance report. When an informant gave positive news that the accused-appellant was looking for a buyer, the police had to act fast. When time is of the essence, the police may dispense with the need for prior surveillance.[13] Thus, the absence of a surveillance report has no relevance to the validity of the arrest of the accused-appellant.

Thirdly, the accused-appellant argues that the trial court erred in not giving credence to his testimony. In fact, his only defense was that he did not know that the sack he handed over to the poseur-buyer contained marijuana plants. According to him, he was just doing his cousin-in-law, Roel Beona, a favor when he fetched the sack from a certain Rosita before giving it to the poseur-buyer. He argues that his good faith is proof of his innocence which should have raised reasonable doubt in his favor.

We do not agree.

The crime under consideration is mala prohibita, and therefore, the lack of criminal intent and good faith are not exempting circumstances.[14] Consequently, the accused-appellant's contention that he did not know that the sack he handed over to the poseur-buyer contained marijuana plants is not a valid defense. Mere possession and/or delivery of a prohibited drug, without legal authority, is punishable under the Dangerous Drugs Act.[15]

Besides, bare denials are weak forms of defenses, especially in this case where the accused-appellant's testimony was not substantiated by clear and convincing evidence.[16] The uncorroborated denial by the accused-appellant cannot prevail over the testimonies of the arresting officer and the poseur-buyer, who both testified on affirmative matters.[17]

Furthermore, there is no indication that the arresting team and the other prosecution witnesses were actuated by improper motives, prevaricating just to cause damnation to him. Thus, their affirmative statements proving accused-appellant's culpability must be respected and must perforce prevail.[18]

Finally, we note that the accused-appellant was indicted and tried for violating Section 4, Article II of R.A. 6425, as amended by P.D. No. 1675, 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. x x x

In particular, he was accused of willfully, unlawfully and feloniously having in his possession, custody and control one and one-half (1½) kilos of dried marijuana. He was convicted by the trial court thereof. Thus, even if there was no prior surveillance, no marked money, and no actual sale, his arrest and conviction is warranted for mere possession and/or delivery of marijuana, without legal authority which is punishable under the above-quoted law.[19]

WHEREFORE, in view of the foregoing, the Decision of the Regional Trial Court of Barili, Cebu, Branch 60 in Criminal Case No. CEB-BRL-190, finding accused-appellant Francisco A. Beriarmente, guilty beyond reasonable doubt of violation of Article II, Section 4 of R.A. 6425, and sentencing him to suffer the penalty of reclusion perpetua and to pay a fine of P500,000.00, is AFFIRMED in toto.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

---

[1] Decision dated October 13, 1998, Rollo, p. 20.

[2] Physical Science Report No. C-14-18-97, Records, p. 18.

[3] Records, p. 1.

[4] Rollo, pp. 19-20.

[5] People v. Requiz, 318 SCRA 635, 644 (1999).

[6] People v. Doria, 301 SCRA 668, 703 (1999).

[7] People v. Cueno, 298 SCRA 621, 631-632 (1998).

[8] People v. Boco, 309 SCRA 42, 55-56 (1999).

[9] 235 SCRA 455, 463 (1994).

[10] People v. Requiz, supra.

[11] Espano v. Court of Appeals, 288 SCRA 558, 565-566 (1998).

[12] 250 SCRA 268, 278 (1995).

[13] People v. Lacbanes, 270 SCRA 193, 203 (1997).

[14] People v. Go Shiu Ling, 251 SCRA 379, 388 (1995).

[15] People v. Sy Bing Yok, 309 SCRA 28, 38 (1999).

[16] People v. Acuno, 313 SCRA 667, 681-682 (1999); People v. Tumaru, 319 SCRA 515, 528 (1999).

[17] People v. Mahunay, 304 SCRA 767, 777 (1999); People v. Acala, 307 SCRA 330, 347 (1999).

[18] People v. Basao, 310 SCRA 743, 767 (1999); People v. Raganas, 316 SCRA 457, 467 (1999); People v. Antonio, 303 SCRA 414, 427 (1999).

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[19] People v. Sy Bing Yok, supra, p. 38.

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.