

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSEFINO LEODONES AND NORMA LUCIANO, ACCUSED-APPELLANTS.

G.R. No. 138735. November 22, 2000

Ponente: VITUG, J.

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VITUG, J.:

Josefino Leodones and Norma Luciano were indicted for violation of Section 8, Article II, of Republic Act No. 6425 under an Information that read:

"That on January 23, 1996 in the City of Kalookan, Metro Manila Philippines and within the jurisdiction of this honorable Court, the above-named accused after conspiring and confederating with each other did then and there willfully, feloniously, and unlawfully, have in their possession, custody and control: (a) two (2) heat sealed transparent plastic bag containing cocaine, with a total weight of 287.04 grams, (b) three (3) sticks of marijuana with a total weight of 1.02 grams and (c) one (1) heat sealed transparent plastic bag containing marijuana with a weight of 1.01 grams, all of which are prohibited drugs, without any permit, license, prescription or authority as required by law.

"Contrary to Law."[1]

The two accused entered a plea of "not guilty" to the accusation when arraigned.

Culled from the decision of the trial court were the conflicting versions given by the prosecution and the defense about the case.

According to the prosecution, on 17 January 1996, SPO Neowillie De Castro of the Special Operations Unit, Narcotics Command, applied for a search warrant. The application was granted by then Regional Trial Court (RTC) Judge, now Court of Appeals Justice Marina L. Buzon, on 22 January 1996. About four o'clock in the afternoon of the same day, Senior Inspector Romulo Manzanias, SPO2 Bonifacio Cabral, SPO1 De Castro and SPO1 Wilfredo Mendoza, coordinating with Barangay Kagawad Santi Santos Ramos, repaired to 120 Aglipay Street, Caloocan City, the place designated in the search warrant. The team arrived at approximately eight o'clock in the evening and forthwith served the warrant on accused Norma Luciano. She signed it. Inside the second room of the house that the group inspected, SP02 Cabral and SPO1 Mendoza found (a) three sticks of marijuana, (b) one transparent plastic sachet containing suspected marijuana (found inside a cabinet), (c) one weighing scale (trickle brand), and (d) two packs of suspected cocaine contained in a transparent plastic bag, weighing 300 grams, more or less. An inventory of the items seized was made and signed by SPO1 De Castro, Senior Inspector Manzanias, Brgy. Kagawad Ramos and Sheila Leodones, a daughter of the accused. A Certificate of Good Conduct of Search was signed by accused Luciano and her daughter. Luciano, when confronted by Sr. Insp. Manzanias, pointed to Josefino Leodones to be the owner of the confiscated articles. The operatives convinced Sheila to accompany them to the place where accused Leodones could be found. Sheila accompanied them to the house of Leodones' mother at No. 35 A. De Leon St., 9th Avenue, Grace Park, Caloocan City, where Leodones was promptly apprehended. The seized items were taken to the PNP Crime Laboratory for examination. The

initial laboratory report No. D-87-96, dated 24 January 1996, submitted by forensic chemist Julita T. De Villa showed the articles to be positive of cocaine and marijuana. Thus:

"Exh. `A' and `B' - POSITIVE to the tests for Cocaine, a prohibited drug;

"Exh. `C-1' through `C-4' - POSITIVE to the tests for Marijuana, a prohibited drug."[2]

A different version was strongly voiced out by the defense. According to it, on 23 January 1996, around ten o'clock in the evening, Norma Luciano and her daughter Sheila Leodones were watching television in their house at 120 Aglipay St., 9th Avenue, Caloocan City, when they noticed someone jumped over the terrace followed by a continuous knocking at their door. Someone yelled, "Misis, dalian mo, buksan mo ang pinto." When Luciano opened the door, six persons in civilian clothes and bearing long firearms rushed inside the house. Identifying themselves as police officers, the group showed to her a piece of paper which they claimed was a search warrant. Luciano followed SPO2 Cabral, SPO1 Mendoza and Brgy. Kagawad Ramos, who appeared to be drunk, into the bedroom. She was forced to go out of the room by SPO1 Mendoza who told her to instead have a talk with Sr. Insp. Manzanias. She went to Sr. Insp. Manzanias but because he paid no attention to her she returned to the bedroom followed by Manzanias. This time, it was Sr. Insp. Manzanias who asked her to leave. Later, she heard somebody yell out "putang ina, eto na" which prompted her to again rush inside. SPO1 Mendoza was then seen to be lifting the first layer of the mattress and seemingly looking at a plastic bag he held with the other hand. SPO2 Cabral, at the other end of the bed, was holding another packet, saying "eto pa." Luciano and Sheila were later forced to sign some papers. Sheila was then required to accompany the policemen to the house of her paternal grandmother at 35 A. de Leon St., 9th Ave., West Grace Park, Caloocan City, where her father was residing with his legitimate family. Leodones was awakened by one of his children and told that Sheila was at the doorstep, crying and in state of shock. Leodones went downstairs to meet Sheila. Leodones was taken outside by one of the men while another pulled out a gun and poked it at his abdomen. A son of Leodones was hit with a .45 caliber pistol, violently thrown against the wall and told "huwag makialam." Leodones was arrested and taken inside a tamaraw van without any inkling why he was being accosted. Luciano, Leodones and Sheila were all taken to Camp Crame, Quezon City. At Camp Crame, Sr. Insp. Manzanias convinced Luciano to point to Leodones as being the owner of the seized articles. Sr. Insp. Manzanias even offered to lend Luciano P2,000.00. Luciano was allowed to go home but was fetched the following morning, 25 January 1996, at about nine o'clock in the morning by SPO2 Cabral, SPO1 Mendoza and SPO2 Domingo. She was taken back to Camp Crame and, in the afternoon, was brought, along with Leodones, to the Department of Justice for Inquest. After having executed their sworn statements, the two were returned to and detained at Camp Crame.

The trial judge, seeing the case for the prosecution, passed judgment in its decision of 02 February 1999, promulgated on 24 February 1999, finding the accused both guilty of the offense charged.

"FOREGOING CONSIDERED, the prosecution was able to prove with normal certainty, the guilt of both accused beyond reasonable doubt of having violated Sec. 8, Art. II RA 6425, as amended by RA 7659.

"WHEREFORE, Judgment is hereby rendered CONVICTING the accused Norma Luciano and Josefino Leodones of Violation of Sec. 8, Art. II, RA Act 6425, as amended by RA 7659; and both are hereby sentenced to suffer the penalty of reclusion perpetua and to pay a fine of FIVE HUNDRED THOUSAND PESOS EACH and to suffer the accessory penalties provided for by law.

"The prohibited articles confiscated from said accused are hereby forfeited in favor of the government to be turned over to the Dangerous Drugs Board for appropriate disposition.

"SO ORDERED."[3]

On 31 May 1999, the convicted accused filed a notice of appeal. In their brief, they alleged:

"I. THE TRIAL COURT OVERLOOKED MATERIAL FACTS OF SUBSTANCE WHICH, IF DULY CONSIDERED, WILL MATERIALLY AFFECT THE RESULT OF THIS CASE.

"II.THE TRIAL COURT ERRED IN CONVICTING APPELLANTS FOR FAILURE OF THE PROSECUTION TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN THEIR FAVOR."[4]

The Solicitor General recommends acquittal.

Like the Solicitor General, the Court is equally perplexed why a request to analyze the seized substances was made on 11 January 1996 when the search for, as well as the seizure of, the prohibited articles was done several days later or, specifically, only on 23 January 1996. Mrs. Julita De Villa, a Forensic Chemist assigned at the PNP Crime Laboratory, testified:

"Prosecutor:

"Q

Now, on January 11, 1996, do you remember if you reported for duty?

"A

Yes, sir.

"Q

Now, while you were on duty, do you remember having received a letter-request sent to you by certain Police Insp. Manzanas?

"A

Yes, sir.

"Q

What is that letter-request for?

"A

The letter-request is requesting us to analyze the specimen in relation to the case of Mr. Leodones, et al.

"Q

I am showing to you this letter-request which was received by your office on January 11, 1996, will you please examine this and tell us if this is the same letter-request that you received?

"A

Yes, sir. This is the letter-request that our office received in relation to the case of Josefino Leodones and Norma Luciano on January 11.

"Q

There is a stamp marked Crime Laboratory Service, will you please tell us what is this?

"A

This rectangular stamp pad is the stamp pad in the Physical Science Division that I belonged, sir.

"Q

And the other one?

"A

The circular stamp pad marked is the stamp pad marked coming from the Information Division of the Philippine National Police, Crime Laboratory Service.

"Q

Now, in this letter-request, there were evidences also submitted and one of these is (a) approximately one-half gm. suspected methamphetamine hydrochloride or shabu and (b) one gm. of suspected cocaine, were these evidences attached to the letter-request?

"A

Yes, sir."[5]

Incredibly, the request for laboratory examination preceded the confiscation of the drugs. In addition, the articles presented to Mrs. De Villa were suspected methamphetamine hydrochloride or shabu and suspected cocaine but the "Receipt of Property Seized" during the operations indicated that no shabu was taken from the house of Leodones. The items said to have been seized only included "three (3) sticks of marijuana; one (1) transparent plastic sachet containing suspected marijuana; one (1) weighing scale marked (trickle brand); and two (2) packs of suspected cocaine contained in transparent plastic, approximately three hundred (300) grams." [6]

Mrs. De Villa was later recalled on 29 May 1996 and, in an apparent attempt to correct the blunder, testified about a request for laboratory examination received by her office on 24 January 1996. Even the Solicitor General was not impressed and pointed out:

"It must be mentioned that de Villa who made a chemical analysis of the specimens submitted on January 11, 1996 and those received by the PNP Crime Laboratory on January 24, 1996 testified for the prosecution twice, the first on May 20, 1996 and the second when she was recalled to the witness stand on May 29, 1996. When she was first called to the witness stand, de Villa was presented as the Chemist 'who conducted the laboratory examination on the specimen subject matter of this case' (p. 3, TSN, May 20, 1996). Understandably, the subject matter of this case adverted to refers to the prohibited drugs (cocaine and marijuana) mentioned in the Information which were seized on January 23, 1996. However, de Villa did not actually testify on May 20, 1999 regarding the result of the chemical analysis on these drugs subject matter of this case but on the contents of the two (2) plastic bags (Exhibits E-1 and D-1) which were received by the PNP Crime Laboratory on January 11, 1996 (pp. 2-19, TSN, May 20, 1996). Of course, the specimens which are the real subject matter of this case were testified to by de Villa on May 29, 2000 when she was recalled.

"The rule is that after examination of a witness by both sides has been concluded, the witness cannot be recalled without leave court in its discretion, which may be granted only upon a showing of some concrete, substantial grounds for recall, such as particularly identified material points were not covered, or particular vital documents were not presented to the witness or the cross-examination was conducted in so inept manner as to result in a virtual absence thereof (People vs. Rivera, 200 SCRA 786 [1991]).

"In this case, de Villa's testimony when she was recalled dealt on matters which were not all touched during her first testimony or which were otherwise testified to by her for the very first time. To say the least, it is strange because the pertinent documents to which de Villa was confronted on May 29, 1996 were available and subject to her disposal at the time she first testified on May 20, 1996 as she herself prepared those documents.

"Thus, the fact that it was de Villa who conducted the chemical analysis and the corresponding report on the

specimens subject of her recall testimony puts under serious question the basis and purpose for which de Villa's said testimony was offered. The prosecution recalled de Villa `to testify on another matter because there were two (2) markings already, one is already marked as Exhibit `A' which he identified' and `to testify for a new evidence which is the subject matter of this information . . .' (p.2, TSN, May 29, 1996 [emphasis ours]).

"The reference to `a new evidence' is baffling because it creates an impression that on May 20, 1996, when de Villa first testified, `the new evidence' were not yet in existence. It must be stressed that as early as January 24, 1996, de Villa had already prepared an made available Chemistry Report D-87-96 respecting the 287.04 grams of cocaine, the `new evidence' adverted to by the prosecution (p. 12, TSN, May 29, 1996). Truly, there is reasonable ground to doubt the credibility of Senior Inspector Manzananas and his men and that of de Villa." [7]

Indeed, there would appear to be good reasons for doubting the claim by the police officers that the signature of Sheila on the receipt of the property seized, and the signatures of Sheila and Luciano on the certificate of good conduct search, were obtained freely. Accused-appellant Luciano testified:

"Q

You said that you were in the sala of the house which you said you bought from Casimiro Alberto at around 10:00 o'clock in the evening of January 23, 1996, who else were watching that T.V. with you?

"A

The two (2) of us, sir.

"Q

And could you tell this Honorable Court who are the actual occupants of this house located at 120 Aglipay St.?

"A

My daughter and myself with my live-in, partner, sir.

"Q

You are referring to your co-accused Mr. Josefino Leodones?

"A

Yes, sir.

"Q

On January 23, 1996, at around 10:00 in the evening, could you tell this Honorable Court where was your live in partner Josefino Leodones?

"A

He was in the house of his mother, sir.

"Q

Where is this house located?

"A

No. 35 9th Avenue, Caloocan City, sir.

"Q

Aside from his mother with whom was this Josefino Leodones, your live-in partner, living in 9th Avenue?

"A

His wife and his children, sir.

"Q

Is the wife of Mr. Josefino Leodones still living?

"A

Yes, sir.

"Q

Now, while you and your daughter Sheila were watching T.V. in the sale of the house, of your house located at 120 Aglipay St., Caloocan City, what happened?

"A

We saw a shadow from the terrace, sir.

"COURT:

"Q

Terrace of your house?

"WITNESS:

"A Yes, your Honor.

"ATTY. FAUSTO:

"Q

Could you remember the proximate time when you saw a shadow from the terrace of your house?

"A

More or less, 10:00 o'clock in the evening while we were watching T.V., sir.

"Q

Now, what was the T.V. program that you were watching that time?

"A

Maricel Soriano, sir.

"Q

What Channel?

"A

Channel 2, sir.

"Q

When you saw shadow from the terrace of your house, what did you do?

"A

My daughter and I embraced each other and then my daughter said to me there is somebody else outside, sir.

"Q

How far were from the place in the sala where you were watching T.V. to the place in the terrace of your house where you said you saw a shadow moving and jumping from the terrace?

"A

There is a window behind, sir.

"Q

You just tell the Honorable Court the approximate size from your place in the sala where you were watching T.V. to the place where you said you saw the window jumping from the terrace?

"ATTY. FAUSTO:

"Q

May we request permission, your Honor, for the witness to walk from that place to that direction?

"COURT:

"A

Proceed.

(WITNESS demonstrating a distance approximately estimated by the Court to be TWELVE (12) to FOURTEEN (14) METERS.)

"ATTY. FAUSTO:

"Q

Now, could you also tell this Honorable Court what was the condition of the light of that house particularly the sala where you said you were watching T.V.?

"A

The sala was lighted, sir.

"Q

How about the condition of the lighting at the terrace where you said you saw the shadow jumped therefrom?

"A

There was a light in the post, sir.

"Q

What kind of post are you referring?

"A

MERALCO post, sir.

"Q

And how far is this MERALCO Electric light post from your terrace?

"A

Around five (5) meters, sir.

"Q

And what was the area of the terrace? The floor area of the terrace?

"A

Witness indicating a distance of about six (6) square meters.

"Q

When you and your daughter embraced each other after noticing that shadow in the terrace, what else did you do?

"A

Somebody successively knocked at the door, sir.

"Q

Could you describe the knocking? It was a strong knock or light?

"A

Strong knock, sir.

"Q

And how far from the sala where you heard the knocking and from where you were watching T.V.?

"ATTY. FAUSTO:

"A

We respectfully submit that the distance is about three (3) to four (4) meters, your Honor.

"Q

After you heard the strong sound of knocking at the door of your house, what did you do Mrs. Norma Luciano?

"A

At the same time in the knocking of the door there was a voice `Mrs. dalian mo biksan mo ang pinto something happened to Boy you might not see him anymore.'

"Q

Who was this boy being referred to by the one whose voice you heard in the other side of the door?

"A

Josefino Leodones, sir.

"Q

Is Josefino Leodones known as Boy in your place?

"A

Yes, sir.

"Q

What voice is that? Is the voice coming from a male person or female person?

"A

Male person, sir.

"Q

After that what did you do?

"A

My daughter and I were trembling when we went to the store, sir.

"Q

The store was opened?

"A

Yes, sir.

"Q

Open to the public?

"A

Yes, sir.

"Q

The store was closed?

"A

No, sir, the store was still open because we close at 10:00 o'clock, sir.

"Q

What time do you usually close that store?

"A

10:00. We are just watching the T.V., sir.

"Q

Could you hear any person buying from the store?

"A

Yes, sir.

"Q

What was the condition of the lighting at the store and its immediate surrounding?

"A

Well lighted, sir.

"Q

Could you tell this Honorable Court if there was a light inside the store?

"A

40 watts Fluorescent, sir.

"Q

How about outside the store?

"A

None, sir.

"Q

When you were already at the store, what did you do?

"A

I asked them. There was a screen door and I could see the person outside and the men said quickly open the door Mrs.

"Q

What are you using in going to your house from Aglipay St.?

"A

The main door going to the store and then there a door in going to the store, sir.

"Q

And in going to your store what door are you using?

"A

The one with a screen, Ir.

"Q

Are you referring to the door where you said was being knocked at by that person outside?

"A

Yes, sir.

"Q

From the place where you were inside the store, could you see any person outside the store and the house?

"A

Because I was then trembling and the door was still closed, I could see from the screen door two (2) men, sir.

"Q

When you saw these two (2) men and before you opened the screen door, could you tell the Honorable Court what utterances did you make?

"A

I asked them, sir why, what is that?

"Q

And what was their reply to your asking them that question?

"A

Please open the door. You might not see Boy anymore.

"Q

After you heard that man said that to you, what did you do?

"A

I opened the door, sir.

"Q

Now, where was Sheila at the time that you were talking to the person or persons knocking at the door at the time?

"A

We were inside that store, sir. She was beside me, sir. left side.

"Q

After you opened the door, what then took place?

"A

Somebody came near me and the rest sneaked in, entered the house, sir.

"COURT:

"Q

How many?

"WITNESS:

"A

There were six (6), your Honor.

"ATTY. FAUSTO:

"Q

You said six (6) persons. Is the person you were talking to included among the six (6)?

"A

Yes, sir.

"Q

Now, did you notice what that person with whom you talked first when they were already inside the house wearing?

"A

They were wearing jackets and with pockets in front and with long firearm, sir.

"Q

Okay, what else happened after that?

"A

The person who talked to me said, 'You have a warrant Misis'

"Q

Was that person showing to you document at the time that he said that you had a warrant?

"A

He was then holding a paper, sir.

"Q

What did that person do with that paper when he was telling you that you had a warrant?

"A

He was then holding a paper saying you have a warrant.

"Q

Could you tell this Honorable Court how that document was shown to you? Whether it was showed, whether it is folded, whether it was opened?

"A

It was opened, sir.

"Q

While this person was showing to you that document which he said was a warrant what were the other persons who entered quickly inside doing?

"A

At first I did not notice them what were they doing but it was Sheila who followed them, sir.

"Q

What is with the comment which that person showed to you as a warrant?

"A

I did not read it anymore, the document, because I followed the others who immediately went inside the house, sir." [8]

Luciano was evidently taken aback by the suddenness of the turn of events. On cross-examination, she insisted that she and Sheila were forced to sign the documents. Thus:

"Q

Is it not true Mrs. witness that after the two plastic bags of cocaine and also these marijuana and marijuana cigarettes were already placed on the table in the sala of your house, an inventory or receipt of the property were prepared by the arresting officers, is that correct?

"A

I did not noticed them doing that.

"Q

Is it not true that you were even requested to sign the receipt of the property which is already marked as Exhibit H, and which I would like to show you?

"A

Witness looking. I did not want to sign, but they forced me to do so.

"Q

So, in other words, it was true that these receipt of property was shown to you, is that correct? Not only you refused to sign, but they showed it to you, and you refused to sign?

"A

They showed that to us.

"Q

And because you refused to sign, it was your daughter Sheila who signed the same because she was also there during the searched?

"A

At first, she refuse to sign, but she was forced to sign.

"Q

And you saw Sheila actually signing the receipts because you were present, is that correct?

"A

She was crying when she signed the document.

"Q

When this was shown to you, referring to Exhibit H, you read the contents thereof and after reading, you refused to sign, is that correct?

"A

I did not read, I was only forced to sign because I was then hysterical and I refused to sign it.

"Q

Did it not occur to you to read the same at that time?

"A

They did not tell me to read it.

"Q

But it was shown to you. Did it not occur to you to read it before you refused to sign?

"A

I did not read it because I was hysterical, and I was wondering where did these came from.

"Q

And of course, before Sheila, your daughter signed this, she was able to read the contents?

"A

She did not read that paper, sir.

"Q

By the way, what is your educational attainment?

"A

3rd Year High School, sir.

"Q

In such a way that you know already how to read English and Tagalog?

"A

Yes sir.

"Q

And also, this Sheila on January 23, 1993, what educational attainment she reached?

"A

She was then in the 2nd year high school.

"Q

After Exhibit H was signed by your daughter Sheila Leodones, referring to receipts of the properties, of the three (3) sticks of marijuana cigarettes, one plastic bag of marijuana, one weighing scale and two bags of suspected cocaine contained in a transparent plastic bag, the searching policemen showed to you these certificate of good conduct of search which was signed by one `owner'?

"A

They did not let me read anything, sir. They just forced us to sign.

"Q

And of course, the signature about the word `owner' is your signature, is that correct?

"A

That is my signature because they forced me to sign.

"Q

But before you signed the same, you read the contents of this certification, is that correct?

"A

I did not read because they forced me to sign.

"Q

Did it not occur to you to read the same before you signed it?

"A

No sir, because I was then hysterical and I was not myself anymore.

"Q

And why were you hysterical, you mean to say that there was no truth that marijuana, cocaine were taken from your room?

"A

The reason why I was hysterical was because I was so afraid because they just entered the house and searched and I was nervous, and shocked."[9]

Sheila, on her part, declared:

"Atty. Fausto:

"Q

You also said, your query or `tanong' was not answered by the police officer and instead, they asked you to withdraw to the sala of the house. While you were doing that, what else happened?

"A

When we were already in the sala, one of the policemen was forcing me to sign a paper.

"Q

Who was that policeman asking you to sign a paper?

"A

I cannot recall the name.

"Q

Did that police officer show to you the paper he was asking you to sign?

"A

He was pointing to the place where I would affix my signature.

"Q

Did you see what was written in that piece of paper he was asking you to sign?

"A

No, sir. Because I was not able to see because we were then crying.

"Q

What did you do after he told you to sign that piece of paper?

"A

I was forced to sign the paper because of the threat that they were going to detain me.

"Q

At that very moment, how many police officers were within your immediate vicinity?

"A

Six of them.

"Q

Were they armed?

"A

Yes, sir.

"Q

What kind of firearm did you see them holding at the time?

"A

I do not know the name of that guns but they were long.

"Atty. Fausto:

"Q

Aside from the police officer who was forcing you to sign that piece of paper, how far was the other police officer from you, this police officer holding firearm?

"A

They were scattered around the house. They were still in the sala.

"Q

At the time you were forced to sign this piece of paper, do you know where the police officer with whom your mother was talking in the sala at the time?

"A

All of us were in the sala.

"Q

If you see this piece of paper again which you said you were forced to sign under the threat you will be

arrested, if you will not sign the same, will you be able to identify the same?

"A

Yes, sir.

"Q

I am showing to you a piece of paper, previously marked Exhibit H for the prosecution and Exhibit 7 - for the defense, dated January 23, 1996 in a one page, will you kindly go over this and tell us and the Honorable Court, what relation does this document have with the piece of paper you said, you were forced to sign by the police officer?

"A

This is the one, sir.

"Q

Miss witness, will you kindly examine very carefully Exhibit H and 7, and please tell the Honorable Court if at the time you said you signed this document, you were able to read what is written there?

"A

I was not able to read what was written in the paper but the police was telling me to sign the paper, pointing to the place where I would affix my signature.

"Q

Did you affix your signature?

"A

Yes, sir.

"Q

Will you please point out the position which you signed?

"A

Here, sir."[10]

The Court could not help but likewise take note of the observation made by the Solicitor General that the arrest of accused-appellants could have been orchestrated by one Casimiro Alberto, Jr., owing to a dispute over the continued occupancy of the house subject of the search warrant. Sr. Insp. Manzanas told Luciano "mukhang malas ang bahay na ito kung ako sa inyo aalis na lang kayo"[11] and even offered the latter P2,000.00 to look for another place to stay. Luciano later testified that on two occasions and while the criminal case was then pending below, he saw Sr. Insp. Manzanas conversing with Casimiro Alberto, Jr., the previous owner of the house. Leodones, on his part, testified:

"Q

Where were you brought after that?

"A

At the SOU in Camp Crame.

"Q

During that time that you were traveling on board that tamaraw from the place where you were arrested at 35-A de Leon St., 9th Ave., Grace Park, Caloocan City, to Camp Crame, Quezon City, can you tell us if anything happened during that time?

"A

They saying 'Give me 5' and raising their hands and said 'matutuwa na si Junior nito.'

"Q

Did you come to know this 'Junior' that they were referring to?

"A

Yes sir. But at that time, I did not yet know.

"Q

How about now or later? Did you come to know who this person as referred to as J.R.?

"A

Yes sir.

"Q

Who is he?

"A

Casimiro Albento, Jr.

"Q

Do you know who this Casimiro Albento is?

A

Yes sir.

"Q

Please tell the court why do you know him?

"A

He was the one from whom Norma Luciano bought the house at Aglipay St.

"Q

You are referring to the house where your former live-in partner was residing at the time?

"A

Yes sir.

"Q

How about this Sheila, where was she residing on January 23, 1996?

"A

In her mother's house.

"Q

Is that all that happened during the time that you were traveling on board that tamaraw from Caloocan to Camp Crame?

"A

One of them said, which I later came to know as 'Willy' and I quote 'Tell Junior dagdagan naman kami.'"[12]

Simon Consulta, a witness presented by the defense, recalled; thus:

"Q

On February 25, 1996, can you tell the court where is your particular whereabouts?

"A

I was in the house together with Alberto Casimiro.

"Q

Where is your house located?

"A

In Quezon City, sir.

"Q

In what particular house in Quezon City?

"A

At 207 San Isidro St., Doña Juana Barangay Holy Spirit, Quezon City.

"Q

What time did this Mr. Alberto came to your place?

"A

He arrived at 7:00 o'clock in the morning.

"Q

What was the purpose of Mr. Casimiro when he came to your place at 7:00 in the morning of February 25, 1996?

"A

He told us that he has work for us in Caloocan.

"Q

What was that work about?

"A

A demolition job, sir.

"Q

And regarding the demolition and job, what did you asked him?

"A

We asked him if he has a permit.

"Q

You are referring to a demolition permit?

"A

Yes sir.

"Q

What did Mr. Alberto Casimiro tell you?

"A

According to him, there is nothing to worry about because he had the husband and wife Leodones arrested and detained.

"Q

Why did Mr. Alberto Casimiro mentioned to you this Aling Norma and Boy Leodones?

"A

We do not know the reason why.

"x x x x x x x x

"Q

After that, what happened?

"A

According to Mr. Alberto Casimiro there is no problem.

"Q

Did you go to Caloocan to demolished the house?

"A

Yes sir.

"Q

Who was with you when you went to Caloocan to demolished the house in said place?

"A

I was with Alberto Casimiro, sir.

"Q

Who else?

"A

A carpenter and other masons.

"Q

Do you know the particular address of this house which you demolished in Caloocan?

"A

Yes sir.

"Q

What is the Number of the house?

"A

No. 120 Aglipay St., Caloocan City.

"Q

When Mr. Alberto Casimiro told you that you have already no problem because he already had caused the apprehension and detention of Aling Norma and Boy Leodones, who was present when he told you about this arrest and apprehension and detention of this Aling Norma?

"A

Me and other persons and also the parents of Alberto Casimiro."^[13]

The testimony of Consulta was to be corroborated by Uldarico Completado but the latter's testimony was dispensed with. The house, as it so turned out, was indeed demolished on 25 February 1996.

The Court, given all, agrees with the Solicitor General in his recommendation of acquittal and reversal of the judgment of conviction.

WHEREFORE, the judgment appealed from is REVERSED and SET ASIDE. Accused-appellants Josefino Leodones and Norma Luciano are ACQUITTED and their immediate release from custody is ordered unless there is another lawful cause for their continued detention. Costs de oficio.

SO ORDERED.

Melo, (Chairman), Panganiban, and Gonzaga-Reyes, JJ., concur.

[1] Records, pp. 2-3.

[2] Records, p. 19.

[3] Rollo pp. 34-35.

[4] Rollo p. 84.

[5] TSN, 20 May 1996, pp. 5-6.

[6] Records, p. 13.

- [7] Manifestation and Motion, pp. 18-20.
- [8] TSN, 02 July 1996, pp. 5-12.
- [9] TSN, 18 March 1997, pp. 17-21.
- [10] TSN, 24 September 1997, pp. 12-14.
- [11] TSN, Norma Luciano, 20 January 1997, p. 14.
- [12] TSN, 27 July 1998, pp. 13-15.
- [13] TSN, 09 September 1997, pp. 4-8.

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