

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AGNES PADASIN Y CHAKITON ACCUSED-APPELLANT.

*G.R. No. 143671. February 14, 2003*

Ponente: AZCUNA, J.

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### AZCUNA, J.:

Appellant Agnes Padasin y Chakiton was charged with violation of Section 4, Article II of Republic Act 6425 as amended by Republic Act 7659, otherwise known as the Dangerous Drugs Act of 1972. She was found guilty and sentenced to suffer the penalty of reclusion perpetua and to pay a fine in the sum of P500,000.00 in a decision dated January 9, 2000 by the Regional Trial Court (RTC), Branch 36, of Santiago City, Isabela.

Not satisfied with said decision, appellant filed the present appeal.

The information states:

That on or about July 14, 1997, in the City of Santiago, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell and deliver more or less 1.8 kilos of dried marijuana leaves with fruiting tops compacted in two (2) pieces cubes, wrapped with printed materials and rug and further place[d] inside a transparent colored plastic cellophane to a NARCOM Poseur Buyer in consideration of two (2) pcs. of P500.00 peso bill[s] bearing Serial Nos. C 339930, BT 115837 and four (4) pcs of P100.00 peso bill[s] bearing Serial Nos. AL 009491, CC 962148, DZ 375462 and GW 558026 in the total amount of P1,400.00, without any authority or license to do the same.

CONTRARY TO LAW.[1]

Arraigned on August 12, 1997,[2] appellant pleaded not guilty.[3] On her motion, the City Prosecutor conducted a reinvestigation of the case,[4] but still found probable cause in a resolution dated March 31, 1998. Trial followed and, thereafter, the court a quo rendered its aforementioned decision.[5]

Appellee, through the Solicitor General, presented the following version of the facts:

At about 1:30 p.m. of July 14, 1997, a person by the name of Nestor Pinto (a tipster) came to the Office of PNP Narcotics Group of Santiago City and informed police officers SPO2 Cabily Agbayani, SPO3 Reynaldo Samut and PO2 Domingo Balido, Jr., that a drug pusher was peddling marijuana at a price of P800.00 per kilo at a rolling store located on Quezon St., Centro East, Santiago City.[6] The PNP immediately organized a buy-bust team composed of the three above officers with SPO2 Agbayani as team leader. At 2:30 p.m., SPO2 Agbayani briefed the team on the plan for the buy-bust operation.[7] The plan covered the roles they were to play, the positions they were to take, and the signal to be used to indicate that the transaction has been executed. Thereafter, SPO2 Agbayani together with PO2 Balido prepared the buy-bust money in the amount of P1,600.00 and recorded the serial numbers of the bills in the police blotter.[8] A few minutes after 2:30 p.m., the team and the informant proceeded to the target area. SPO3 Samut and the informant approached the rolling store, while the rest of the team watched from across the street, about 7 to 10 meters away from the store.[9] The informant went inside the

rolling store first and talked to appellant. Not long thereafter, appellant came out of the store with the informant and she was introduced by the latter to SPO3 Samut who posed as the buyer. SPO3 Samut then talked to appellant, and offered to buy two kilos of marijuana. After some haggling, appellant agreed to a bargain price of P1,400.00. Appellant then told them to wait while she gets the marijuana.[10] At around 3:00 p.m., appellant left and headed towards the Tops Theater, while SPO3 Samut and the informant waited in a rented tricycle parked one meter away from the front of the store.[11] Five minutes later, appellant returned bringing a colored plastic bag which she gave to SPO3 Samut. While the informant conversed with appellant, SPO3 Samut pulled out the contents of the plastic bag which were wrapped in paper, and smelled the same. Convinced that they were indeed marijuana, he handed the buy-bust money to appellant and immediately gave the pre-arranged signal to his teammates who were positioned nearby. The rest of the team then arrested the appellant, who then surrendered the buy-bust money to the police officers after they demanded it from her.[12] She was brought to the Narcom Office at Victory Sur, Santiago City for tactical investigation whereupon she pointed to a certain Susan Macabio as the source of the marijuana. She then told the police to look at the house of a certain Paz Cherwaken in Centro East, Santiago City. The police officers conducted a follow-up operation to look for Susan Macabio, but they were unable to find her. The following morning, they brought the appellant to the Prosecutor's Office where they filed a complaint against her and submitted the substance for examination at the PNP Crime Laboratory. [13] The substance weighed 1.38 kilos and was found to be marijuana, a prohibited drug.[14]

The defense presented three witnesses, namely, appellant, Carol Wanawan and Paz Cherwaken.

Appellant testified that in the afternoon of July 14, 1997, while she was at her rolling store, her Igorot tribemates Carol Wanawan and Betty Tayaan came over to visit. At around 2:30 p.m., a certain Susan Macabio, an acquaintance and tribemate of appellant, arrived carrying a nicely-wrapped package. After staying in the store for thirty minutes, Macabio said that she had to attend to an important matter and had to leave. She then requested appellant to hand the package over to a man who would later come looking for her. Appellant readily agreed without asking what the contents of the package were, or the name of the man coming to claim it, nor did she ask if Macabio was coming back on that day. Later, some men arrived asking if appellant knew Susan Macabio. Appellant answered in the affirmative, and then gave the package to them, as she was instructed by Macabio. Immediately thereafter, the men forced her to board a tricycle and brought her to the headquarters of the PNP Narcotics group. During the investigation, the Narcom agents asked her about Susan Macabio and she told them to go to Paz Cherwaken who might know her whereabouts. She denied knowledge of the contents of the package and receipt of the buy-bust money from the police officers, and further claimed that they charged her only because they could not find Susan Macabio.[15]

The testimony of Carol Wanawan corroborated appellant's narration. Wanawan testified that after appellant's arrest, she and her companion, Betty Tayaan, immediately went to the house of their aunt Paz to report the incident. While they were there, the same men who took the appellant came and asked Paz if she knew Susan Macabio. Paz then accompanied the men to look for Susan Macabio at her brother's house in Buenavista.[16]

The testimony of Paz Cherwaken was consistent with the testimony of Carol Wanawan with respect to the incidents after the arrest. Cherwaken said that the Narcom agents arrived at her house looking for Susan Macabio. She accompanied them to the house of Susan Macabio's brother at Buenavista. When they got there, Susan Macabio's brother said that Susan had left, and so they went home.[17]

After assessing the evidence submitted by both parties, the court a quo accepted and believed the testimonies of the police officers. It applied the presumption that the police officers performed their duties in a regular manner.[18]

Furthermore, the court a quo did not give credit to the denials of the defense and its allegation that the package containing the drugs was innocently delivered by the appellant to the police officers upon instruction of a certain Susan Macabio.[19]

Appellant's sole assignment of error is:

CONSIDERING THE EXISTENCE OF REASONABLE DOUBT, THE COURT A QUO HAS ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT OF THE OFFENSE CHARGED IN THE INFORMATION.[20]

The appeal is without merit.

Appellant was caught in a buy-bust operation, a form of entrapment employed by peace officers to effect the apprehension of a criminal in the act of committing an offense. Entrapment is allowed when it is undertaken with due regard to constitutional and legal safeguards.[21] It has repeatedly been accepted as a valid means of arresting violators of the Dangerous Drugs Law.[22]

In a long line of cases, we have ruled that the testimonies of police officers involved in a buy-bust operation deserve full faith and credit, given the presumption that they have performed their duties regularly. This presumption can be overturned if clear and convincing evidence is presented to prove either of two things: (1) that they were not properly performing their duty, or (2) that they were inspired by any improper motive.[23]

The police officers in this case properly performed their duties in the conduct of the buy-bust operation.

Appellant rightly argues that the presumption of regularity in the performance of official duty by law enforcement agents should not by itself prevail over the presumption of innocence.[24] In fact it is on this premise that we have laid down the 'objective' test in scrutinizing buy-bust operations. In *People v. Doria*, we said:

We therefore stress that the 'objective' test in buy-bust operations demands that the details of the purported transaction must be clearly and adequately shown. This must start from the initial contact between the poseur-buyer and the pusher, the offer to purchase, the promise or payment of the consideration until the consummation of the sale by the delivery of the illegal drug subject of the sale. The manner by which the initial contact was made, whether or not through an informant, the offer to purchase the drug, the payment of the 'buy-bust' money, and the delivery of the illegal drug, whether to the informant alone or the police officer, must be the subject of strict scrutiny by courts to insure that law-abiding citizens are not unlawfully induced to commit an offense.[25]

Applying this 'objective' test to the case at bar, the trial court correctly upheld the validity of the entrapment as shown by the testimonies of the two of the members of the buy-bust team. The testimony of SPO3 Samut, the designated poseur-buyer, showed the complete details of the transaction, from his introduction as a buyer to the appellant by the informant, to the consummation of the sale and the eventual arrest of the appellant. His testimony, substantially corroborated by the testimony of SPO2 Agbayani[26] and their joint affidavit,[27] went as follows:

xxx xxx xxx

Q:

And do you remember having reported to your office on July 14, 1997?

A:

Yes, Sir.

Q:

While you were there in your office, do you remember if you have [a] companion?

A:

I remember, sir.

Q:

How many?

A:

Three (3) of us, [S]ir.

Q:

Will you please name them?

A:

SPO2 Cabily Agbayani and PO3 Domingo Balido, Jr., [S]ir.

Q:

What about at 1:30 o'clock in the afternoon that day, do you remember having [been] given any information from any concerned citizen?

A:

Yes, [S]ir.

Q:

What was that information that [the] concerned citizen or tipster gave?

A:

The tipster informed me that there is a drug pusher at the vicinity of a rolling store along Quezon Street, Santiago City, [S]ir.

Q:

And upon learning that there was a drug pusher at the vicinity of [a] rolling store located along Quezon Street, Santiago City, what, if any, did you and your companions do?

A:

Our team leader Agbayani organized a team and brief[ed]us,[S]ir.

Q:

How many of you were in the team that was organized by SPO2 Cabily Agbayani?

A:

Three (3) of us, [S]ir.

Q:

And after that, what next step did you and [the] members of your team do?

A:

After the briefing, SPO2 Agbayani and PO3 Balido proceeded to Santiago Police Station to enter the buy-bust money in the police blotter, [S]ir.

xxx xxx xxx

Q:

How much is the buy-bust money?

A:

P1,600.00, [S]ir.

Q:

In what denominations [were the bills for the] buy-bust handed to you?

A:

Two (2) pieces of five hundred (500) and six (6) pieces of one hundred (100), [S]ir.

Q:

And after those pieces of buy-bust money were handed to you, what did you do next together with your companions?

A:

After receiving the buy-bust money, we proceeded to the tricycle area at the rolling store together with the tipster, [S]ir.

Q:

And what time was it, when you proceeded to the rolling store?

A:

3:10 in the afternoon, [S]ir, of July 14, 1997.

Q:

While you were there at 3:10 in the afternoon, where did the tipster go?

A:

Inside the store, [S]ir.

Q:

How about your companion Agbayani?

A:

He positioned himself in front of the canteen, [S]ir.

Q:

How about your third companion PO3 Balido, where did he place himself?

A:

They were together, the two (2) of them, [S]ir.

Q:

How far [were] these two (2) companion[s] of yours in relation to this rolling store?

A:

About ten (10) meters, [S]ir.

Q:

And when you were already at this rolling store, what did you do?

A:

I and the tipster talked with the suspect, [S]ir.

Q:

What did you talk about?

A:

The tipster introduced me [to] the suspect [as] the one who will buy the drug, [S]ir.

Q:

When you were already introduced by the tipster to the suspect, as the [poseur-buyer], what did the suspect tell you?

A:

The suspect and I talked and agreed for two (2) kilos in consideration of One Thousand Four Hundred (P1,400.00) Pesos, [S]ir.

Q:

After you have agreed that the price of two (2) kilos of regulated drug is One Thousand Four Hundred (P1,400.00) Pesos, what transpired next?

A:

She told me to wait for she will get the item, [S]ir.

xxx xxx xxx

Q:

Then after five (5) minutes, did the suspect return?

A:

She appeared and handed something with the colored plastic cellophane, [S]ir.

Q:

And what did she tell you when she appeared after five (5) minutes with the colored plastic cellophane?

A:

She handed to me the plastic cellophane, [S]ir, and I immediately inspect[ed] the contents, [S]ir.

Q:

What is the content of that plastic that was handed to you by the suspect?

A:

When I inspected, [S]ir, it is the marijuana.

Q:

How do you know that this is marijuana?

A:

Because we have seminars on that and because of our several operations, [S]ir.

Q:

And after having inspected and because of your expertise, can you tell that the items that were delivered to you were marijuana, and what transpired next?

A:

After that, [S]ir, I handed also the buy-bust money.

Q:

How much?

A:

One Thousand Four Hundred (P1,400.00) Pesos, [S]ir.

Q:

In what denominations?

A:

Two (2) pieces of five hundred (500) and four (4) pieces of one hundred (100), [S]ir.

Q:

If that plastic bag will be shown to you, which you claimed was delivered to you, or handed to you by the suspect, when she appeared after five (5) minutes, will you be able to identify?

A:

Yes, [S]ir.

Q:

Showing to you this striped bag, will you please take a look at it and tell what relation [it has] to that striped plastic bag which you just stated was handed to you by the suspect?

A:

This is it, [S]ir.

xxxx xxx xxx

Q:

After [handing] the buy-bust money to the suspect and you have taken the items, what transpired next?

A:

I immediately gave [the] pre-arranged signal to the back-up, [S]ir.

Q:

Could you show how?

A:

By just waving my head, [S]ir.

Q:

And then after that, what happened next?

A:

We brought her to our office, [S]ir.

xxx xxx xxx

Q:

Now you [acted] as a [poseur-buyer,] do you know the name of the accused/suspect?

A:

Yes [S]ir.

Q:

Please tell who?

A:

Agnes Padasin, [S]ir.

Q:

Since when have you known Agnes Padasin?

A:

The day when we apprehended her, [S]ir.

Q:

And if that Agnes Padasin is in court, will you be able to identify her?

A:

Yes [S]ir.

Q:

Please rise and point to the court the person of Agnes Padasin, if she is in court?

A:

The one wearing white t-shirt, [S]ir (a person pointed to by the witness who stood up and gave her name as Agnes Padasin).[28]

Police Inspector Prevy Fabros Luis, the PNP forensic analyst who examined the drug, confirmed in his testimony that the suspected prohibited drug seized from appellant tested positive for marijuana.[29] This was corroborated by the physical evidence on record, Laboratory Report No. D-024-97s.[30]

It bears stressing that what is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti.[31] Both were satisfactorily proved in the case at bar. The testimonies above show that the prosecution witnesses were able to testify positively and categorically that the transaction or sale actually took place. The subject marijuana was likewise positively identified by the prosecution when presented in court. With these circumstances, the prosecution was able to establish that the police officers properly performed their duties in the conduct of the buy-bust operation.

Accordingly, the elements necessary for the successful prosecution of the illegal sale of drugs[32] have been met in this case. Thus:

- The buyer was clearly identified as SPO3 Samut and the seller as the appellant Agnes Padasin.
- The object of the sale was established to be the marijuana and the price to be P1, 400.00.
- The object of the crime was in fact delivered by the appellant to the police poseur-buyer, as admitted by the appellant.
- Payment was made by marked money, previously recorded in the police blotter, which was given to the appellant during the buy-bust operation.

The next point is that the police officers were not inspired by any improper motive.

It is significant to note that appellant has not imputed any false motive on the police officers who arrested her and

filed this case against her. No evidence was presented to show that the buy-bust operation was resorted to in order to harass, extort, or abuse.[33] What was established was that the police officers became aware of appellant's illegal trade only hours before the buy-bust operation through the information given by the tipster. In fact, the informant had to introduce PO3 Samut first to the appellant before managing to negotiate the sale of marijuana to him. There is no evidence to show that these witnesses were motivated by any reason other than their official duty.

The presumption of regularity in the performance of duty is, in this case, uncontradicted by evidence to the contrary and therefore stands, [34] aside from the fact that the prosecution's evidence fully shows and confirms such regularity.

Appellant would, however, argue that her "vehement denial" of selling the drugs and of receiving the buy-bust money as shown in the testimonial evidence of the defense indicates the existence of a reasonable doubt. She does not deny handing a package to the policemen, but asserts that she had no knowledge of the contents of the package as she was only instructed by a certain Susan Macabio to give it to whoever shall come to look for the latter. The trial court, however, found her story unworthy of belief, thus:

The accused denied that she sold any marijuana to SPO1 Samut or that she received any money from him. She claimed that the package containing the marijuana was only left to her by her friend and tribesmate Susan Macabio with instructions to deliver it to a man who will ask for her. The accused also claimed that she did not know the contents of the package left to her by Susan Macabio. She was not convincing. Her testimony contained several loopholes. When asked, she said that she did not ask the contents of the package allegedly left to her by Susan Macabio. She did not also ask where Susan was going or what time she will return. Why? Simple curiosity impels one to ask questions. Why did she deviate from this normal conduct? Her story is just not credible. It does not conform to the natural course of things.[35]

We further observe that appellant did not bother to ascertain the identity of the person who was to claim the package entrusted to her. She failed to exercise that modicum of natural inquisitiveness, as expected of anyone with ordinary discretion. This unnaturalness raises doubt as to the veracity of her assertion.

Courts generally view the defenses of denial and alibi with disfavor on account of their aridity and the facility with which an accused can concoct them to suit his defense.[36] Unsubstantiated by clear and convincing evidence, these defenses are negative and self-serving, and deserve no weight in law, and cannot prevail over the testimonies of credible witnesses who testify on affirmative matters.[37] Hence, to be believed, these inherently weak defenses must be buttressed by strong evidence of non-culpability.[38] Aside from the appellant's bare denials in her testimony, which the trial court found not credible, no evidence other than the testimonies of her tribesmates was presented to bolster the version of the defense. The court a quo found these testimonies as merely self-serving and suspicious:

The accused presented as witness Carol Wanawan to corroborate her story. But Carol Wanawan only rendered less credible the testimony of the accused. Because Carol Wanawan uttered exactly what the accused said. It was obvious she was only coached what to say. Even the other witness Pacita Cherwaken mouthed the same words Carol Wanawan uttered when asked what Carol told her. That the accused presented witnesses who were obviously coached to corroborate her testimony only shows that she is not telling the truth.[39]

It is settled doctrine that the trial court's evaluation of the credibility of a testimony is generally respected, for the trial court has the distinct opportunity of directly observing the demeanor of a witness and, thereby, determining whether said witness is telling the truth.[40] As a rule, therefore, its factual findings are not disturbed, absent any showing that certain facts of weight and substance bearing on the elements of the crime have been overlooked, misapprehended, or misapplied.[41] In the case at bar, we find no reason to alter the findings of the court a quo, and no ground to question its conclusion.

WHEREFORE, the decision of the court a quo is AFFIRMED. Costs de oficio.

**SO ORDERED.**

Davide, Jr., C.J., Vitug, Ynares-Santiago, and Carpio, JJ., concur.

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[1] Records, p. 1.

[2] See Order; Records, p. 30.

[3] Assisted by Atty. Jose Romeo S. dela Cruz.

[4] Records, p. 41.

[5] Rollo, p. 20.

[6] TSN November 10, 1998, pp. 7-9; TSN January 13, 1999, pp. 30-31.

[7] TSN November 10, 1998, pp. 9-10.

[8] TSN Nov. 10, 1998, pp. 10-11; TSN January 13, 1999, pp. 31-33; Records, pp. 9-11.

[9] TSN November 10, 1998, p. 14; TSN January 13, 1999, pp. 33-34.

[10] TSN January 13, 1999, pp.35-36.

[11] TSN January 13, 1999, pp.11-12; January 21, 1999, pp. 8-10.

[12] TSN November 10, 1998, pp. 16-18; TSN January 13, 1999, pp. 36-42.

[13] TSN November 10, 1998, pp. 24-27; TSN February 24, 1999, pp. 7-8.

[14] PNP Crime Laboratory Physical Science Report No. D-024-97s, Records, p.126.

[15] TSN August 11, 1999, pp. 3-11; TSN September 3, 1999, pp. 3-12.

[16] TSN May 20, 1999, pp. 4-18.

[17] TSN May 25, 1999, pp. 3-11.

[18] Rollo, pp.160-162.

[19] Rollo, pp. 18-19.

[20] Rollo p. 39.

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

[22] People v. Montano, 337 SCRA 608 (2000).

[23] People v. Valencia, G.R. No. 143032 , October 14, 2002 citing People v. Medenilla, 355 SCRA 172 (2001), People v. Lee, 354 SCRA 745 (2001), People v. Mustapa, 352 SCRA 252 (2001).

[24] Rollo, p.8.

**[25] 301 SCRA 668 (1999).**

[26] TSN, November 10, 1998, pp. 3-27.

[27] Records, p. 7.

[28] TSN, January 13, 1999, pp. 30-44.

[29] TSN July 21, 1998, pp. 11-18.

[30] Records, p. 126.

[31] *People v. Boco*, 305 SCRA 28 (1999).

[32] *People v. Montano*, *supra*.

[33] *Ibid*.

[34] *People v. Sy*, G.R. No. 147348, September 24, 2002 citing *People v. Julian-Fernandez*, G.R. Nos. 143850-53, December 18, 2001.

[35] Rollo, p. 19.

[36] *People v. Alib*, 322 SCRA 93 (2000).

[37] *People v. Llamo*, 323 SCRA 791 (2000); *People v. Gallarde*, 325 SCRA 835 (2000); *People v. Jose*, 324 SCRA 196 (2000).

[38] *People v. Arlee*, 323 SCRA 201 (2000); *People v. Paburada*, 347 SCRA 43 (2000).

[39] Rollo, p. 19.

[40] *People v. Galido*, 326 SCRA 187 (2000).

[41] *People v. Chen Tiz Chang*, 325 SCRA 776 (2000).

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