

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RUEL EUGENIO Y ANGELES AND JIMMY TAN Y ABUCAY, APPELLANTS.

G.R. No. 146805. January 16, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The presentation in court of “buy-bust” money is not indispensable to the prosecution of illegal drug cases. Neither is prior surveillance by the police. It is enough that the elements of the crime are proven by credible witnesses and other pieces of evidence.

The Case

Ruel Eugenio and Jimmy Tan appeal the November 29, 2000 Decision[1] of the Regional Trial Court (RTC) of Baguio City (Branch 6) in Criminal Case No. 16839-R. Finding them guilty of selling and delivering dried marijuana leaves, the RTC ruled as follows:

“WHEREFORE, the Court finds the accused RUEL EUGENIO y ANGELES and JIMMY TAN y ABUCAY, as confederates, guilty beyond reasonable doubt of Violation of Section 4, Article II of Republic Act 6425 as amended by Sections 13 and 17 of Republic Act 7659 x x x as charged in the Information and hereby sentences each of them to suffer the penalty of reclusion perpetua and to pay a fine of P500,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs.

“The marijuana brick weighing 1,034.5 grams x x x being the subject of the crime and a prohibited drug, is declared confiscated and forfeited in favor of the State to be destroyed immediately in accordance with the law.”[2]

The Information dated July 12, 1999, charged appellants in these words:

“That on or about the 9[th] day of July, 1999, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, did then and there willfully, unlawfully and feloniously sell and deliver to PO3 JUAN A. PIGGANGAY, a member of the Philippine National Police, who acted as poseur-buyer[,] one (1) brick of marijuana dried leaves x x x wrapped in gift wrapper put inside a blue plastic bag with approximately more or less 1,000 grams, a prohibited drug, well knowing that the sale and delivery of such drug is prohibited without authority of law to do so, in violation of the aforementioned provision of law.”[3]

Upon their arraignment on September 9, 1999,[4] appellants, assisted by their counsel de parte,[5] pleaded not guilty. After trial in due course, the court a quo rendered the assailed Decision.

The Facts

Version of the Prosecution

In its Brief, the Office of the Solicitor General (OSG) presents the prosecution’s version of the facts as follows:

“On July 9, 1999 at about 12:00 noon a civilian informer (CI) reported to the 14[th] Regional Narcotics Office, Cordillera Administrative Region, based at FPS Compound, Baguio City, that a certain Ruel and Jimmy are engaged in selling or delivering marijuana to buyers, and that the two could be contacted at the Hilltop Road, City Market, Baguio City.

“After evaluating the information, Police Chief Inspector Benson Leleng, Regional Chief of the 14[th] Narcom, formed a buy-bust team composed of Police Inspector Edgar Apalla as team leader, PO2 Juan Piggangay as poseur-buyer, and PO2 Adel Punongbayan and PO2 Jun Calimlim as back-up team. Chief Inspector Leleng briefed the buy-bust team. They were told to prepare the pre-operation coordination sheet so that they will coordinate with the Baguio City Police Office on the matter.

“At about 1:00 [p.m.] of the same day of July 9, 1999, the buy-bust team proceeded to the Baguio City Police Office Tactical Operation Center for proper coordination.

“Thereafter, PO3 Juan Piggangay, the poseur-buyer, and the CI proceeded to the Hilltop Road at the City Market while Police Inspector Edgar Apalla, PO2 Adel Punongbayan and PO2 Jun Calimlim followed secretly and posted themselves in strategic places in the area so that they could observe what the poseur-buyer and the CI will do. The CI talked to two male persons later identified as Ruel Eugenio and Jimmy Tan in front of the Benguet Lunch Restaurant at Hilltop Road. The CI introduced Piggangay as a marijuana and shabu user. They had a friendly conversation outside the Benguet Lunch. Ruel Eugenio then asked Piggangay how much he will buy and the latter asked the price of marijuana per kilo. And Jimmy Tan said P1,000.00 a kilo. Right then and there Piggangay ordered one kilo of marijuana to be paid cash on delivery. Ruel thereafter instructed Piggangay and the CI to wait beside the Reliance Appliance Center located at Magsaysay Avenue as they will get the marijuana in La Trinidad, Benguet. Ruel and Jimmy thereafter left for La Trinidad, Benguet leaving Piggangay and the CI beside the Reliance Center. It was then that Piggangay went to his back-up team who were in the vicinity and informed them that the two, Ruel and Jimmy, proceeded to La Trinidad to get the marijuana ordered and told them to just wait.

“At about 3:30 p.m. Ruel and Jimmy came back on board a passenger jeepney and after they alighted therefrom, Jimmy Tan was seen holding a blue plastic bag with something inside. Jimmy handed the blue plastic bag to Piggangay and the latter asked in Ilocano dialect, ‘Is this my order.’ And Ruel answered in the affirmative that it was and at the same time demanded the payment of P1,000.00. Piggangay opened first the blue plastic bag and checked its contents. And upon seeing that it contained a dried marijuana brick, he immediately executed the pre-arranged signal by pulling out his handkerchief. Upon seeing the signal, the back-up team composed of Police Officers Adel Punongbayan, Jun Calimlim and Edgar Appalla rushed to the scene introducing themselves as Narcotics Agents and effected the arrest of both accused Ruel Eugenio and Jimmy Tan. They apprised them of their constitutional rights to remain silent, to have counsel, and that anything they will say may be used against them.

“The team thereafter brought appellants, and the x x x confiscated evidence to their office at DPS Compound for investigation and proper disposition.

“At the Narcom office the Booking Sheet and Arrest Report of both accused were prepared, the receipt of the property seized from the accused consisting of one brick of marijuana dried leaves wrapped in a newspaper contained in a gift wrapper and put x x x in three blue plastic bags was issued. A preliminary narcotics field test was made by Police Officer Romeo Abordo and the same was found to be positive for marijuana.

“And when referred for laboratory examination to the PNP Crime Laboratory, Camp Dangwa, La Trinidad, Benguet, the item was found to have a weight of 1,034.5 grams and was found positive for marijuana after physical or microscopic test, chemical test, and confirmatory or chromatographic test conducted by Forensic Chemist Alma Villasenor as shown by her Chemistry Report No. 8-08-99. After a medical examination to determine if they were maltreated, both accused were found to be normal as shown by their respective Medical Certificates.”[6] (Citations omitted)

Version of the Defense

The defense states its version of the facts in the following manner:

“Both accused are vegetable vendors at the Hangar Building, City Market, Baguio City. The accused Jimmy Tan is a sidewalk vendor while the accused Ruel Eugenio manages the stall of his mother.

“The accused were arrested [o]n the afternoon of July 9, 1999 after just having alighted from a passenger jeepney and were walking upwards the Hangar Road, Baguio City. The arrest was the result of an alleged buy[-]bust operation wherein a poseur buyer had earlier that same afternoon allegedly offered to purchase marijuana from the accused. Curiously enough, no money was involved in this buy[-]bust operation.”[7] (Citations omitted)

Appellants testified that they were mere vegetable vendors who were tending their respective stalls beside the Hangar Market.[8] On July 9, 1999, around 1:30 p.m., they both went to the La Trinidad Trading Post in Benguet to buy some vegetables, which they intended to sell.[9] Upon their return, they alighted from a jeepney near the Reliance furniture store at the corner of Magsaysay Avenue and Hilltop Road.[10] While they were walking along Hilltop Road on their way to their stalls, four unidentified men allegedly blocked their way and pointed guns at them.[11] The four men apprehended and took them to the police station in a taxi.[12] It was at the police station where appellants allegedly saw for the first time the subject marijuana brick, when it was presented to them by the policemen.[13]

Ruling of the Trial Court

The trial court ruled that both appellants had been caught in flagrante delicto selling and delivering a marijuana brick weighing 1,034.5 grams to the poseur-buyer, PO3 Piggangay, during a legitimate buy-bust operation. After their failure to present clear and convincing evidence that would overcome the testimonies of the police team that had conducted the operation, the RTC rejected their assertion that they had merely been framed up. The policemen positively identified them as the sellers of marijuana. Since no ill motive on the part of the former was shown by the defense, their testimonies could not be disregarded by the court *quo*. The presumption of regularity in their performance of official duties remained. Moreover, the trial court opined that the allegation of frame up was a desperate attempt, an afterthought on the part of appellants, to extricate themselves from the drug charge against them.

Hence, this appeal.[14]

Issue

In their Brief, appellants assign this lone error for our consideration:

“It is therefore respectfully submitted that the trial court erred in giving credence to the testimony of the prosecution witnesses and totally disregarding the evidence for the defense.”[15]

The Court’s Ruling

The appeal has no merit.

Main Issue:

Credibility of Prosecution Witnesses

Appellants contend that the testimonies of the prosecution witnesses were implausible and unreliable. They further assert that what actually transpired was a mere frameup, not a buy-bust operation.

Frameup, like alibi, is generally viewed with caution by this Court, because it is easy to contrive and difficult to disprove. Moreover, it is a common and standard line of defense in prosecutions of violations of the Dangerous Drugs Act. In the case at bar, the allegation of appellants that they had been framed up cannot prevail over the testimonies of the prosecution witnesses who, not having any reason to testify falsely against them, positively identified them as drug dealers.[16] We find these testimonies consistent, unequivocal and worthy of credence.

Moreover, as mentioned earlier, the policemen as public officers were presumed to have performed their official duties with regularity and in accordance with law.[17] This presumption remained steadfast after the defense had failed to present clear and convincing proof to the contrary.[18]

The defense also presented Carlito Valdez and Freddie Bautista. They were hairdressers at Carla's Magic Touch Beauty Parlor along Hilltop Road, not far from the scene of the buy-bust operation. In their Brief, appellants assert that these eyewitnesses had no reason to perjure themselves in court and therefore gave credible testimonies. Supposedly, on July 9, 2000, while they were in front of the parlor calling out to customers, the two witnesses saw appellants being apprehended by armed men who later turned out to be policemen.[19] The law enforcers allegedly frisked appellants, but failed to recover anything from them.[20] No bag was ever handed by the latter to the former, according to the testimonies of Valdez and Bautista. Appellants were then handcuffed and whisked away. The eyewitnesses purportedly saw all of this from the beauty parlor, which was only about five meters away from the site of the arrest.[21]

However, in view of the conflicting statements Valdez made in court, we find his testimony dubious. We quote the relevant portion in which he explicitly denied knowing appellants:

“Q:

These two persons who were to be apprehended, do you know them?

A:

No, sir.

Q:

What about the two persons who were going to apprehend, do you know them?

A:

No, sir.

Q:

So you know none of the four persons?

A:

Yes, sir.”[22]

Later, however, he contradicted himself when he acknowledged that he had known appellants as past customers. On the date of the arrest, he even visited Eugenio's mother to tell her that her son had been arrested. He testified thus:

“Q:

Now, you said that after Tan and Eugenio were boarded into a Tamaraw FX taxi, you went inside your shop because you had a customer. After that what did you do? After attending to the customer what did you do?

A:

I went to inform their mother of what I saw.

Q:

Whose mother?

A:

Of the persons arrested.

Q:

Both their mothers?

A:

Only the mother of Eugenio, sir.

Q:

Why? Before July 9, 1999 did you already know the mother of Eugenio?

A:

Yes, sir. I know the mother because I usually buy vegetables from her whenever I go to the province.

Q:

Does she own any stall in that vicinity?

A:

Yes, sir. I think they are renting.

Q:

Where?

A:

At Hilltop, sir.

Q:

Do you know the name of the mother of Eugenio?

A:

No, sir.

Q:

All right. When you went to her store what did you tell her?

A:

I informed her of what I saw, sir.

Q:

If you can still remember, please tell the Honorable Court exactly what were your words in telling her about what you saw?

A:

I said, ‘Your son was apprehended.’”[23]

To our mind, this unexplained vacillation in the testimony of Valdez casts serious doubt on his credibility as an eyewitness and, ultimately, undermines the defense of appellants. He could not have been an impartial bystander as he would have liked the trial court to believe, for he was already familiar with them even before July 9, 2000, or the day of the arrest. Bautista likewise testified to having known them even prior to the date of the arrest, for they used to be customers of the beauty parlor.[24]

In the face of the policemen’s positive testimony, appellants’ denial is self-serving and has little weight in law.[25] We have held that “denials unsubstantiated by convincing evidence are not enough to engender reasonable doubt particularly where the prosecution presents sufficiently telling proof of guilt.”[26]

Thus, there exists no cogent reason to abandon the findings of the trial court, which gave credence to the prosecution evidence. Well-settled is the rule that appellate courts will not disturb on appeal the trial court’s evaluation of the credibility of witnesses, absent any arbitrariness or oversight in the appreciation of facts or circumstances of weight and substance.[27]

Appellants also contend that the policemen could not have planned a buy-bust operation in so short a time. The team was formed right after the policemen had received a report from a civilian informer around 12 noon of July 9, 1999. Without first conducting a surveillance of appellants, they were already holding negotiations for the sale of marijuana at 1:00 p.m. They arrested appellants a few hours later, after the latter had supposedly returned from La Trinidad, Benguet. The operation seemed too simple and easy.

Further, appellants seemed so dumb as to openly deal drugs to a person they had just met for the first time. No money even changed hands; PO2 Piggangay merely offered to pay after delivery.

We cannot sustain appellants’ contention that the buy-bust operation was a sham, simply because no prior surveillance was conducted, and the entire operation lasted only for several hours. After a careful consideration of all the events that transpired before, during and after the arrest, we agree with the lower court that the accounts of the prosecution witnesses were plausible. There is nothing in their testimonies that would engender any suspicion that the operation was a deception.

Furthermore, the officers were not ordinary policemen. They were operatives of the 14th Narcom group, which specifically operated to curtail illegal drug activities. Since they were more experienced and familiar with drug cases than ordinary police officers, we find nothing improbable or peculiar about their planned buy-bust operation that was to be conducted in a span of several hours and even without prior surveillance.

There is no requirement that prior surveillance should be conducted before a buy-bust operation can be undertaken especially when, as in this case, the policemen are accompanied to the scene by their civilian informant.[28] Prior surveillance is not a prerequisite for the validity of an entrapment or a buy-bust operation,[29] there being no fixed or textbook method for conducting one.[30] We have held that when time is of essence, the police may dispense with the need for prior surveillance.[31]

Moreover, it was not improbable for appellants to deal drugs openly in a public place to persons they hardly knew, for drug dealers are known to sell their goods even to strangers. They ply their wares wherever prospective customers may be found. They have indeed become increasingly daring and openly defiant of the law.[32]

It is of no moment that no money changed hands. Considering that appellants were charged with the sale or delivery of prohibited drugs, the consummation of the crime may be sufficiently established even in the absence of an exchange of money.[33] There is no rule that requires a simultaneous exchange of money and prohibited drug between the poseur-buyer and the pusher.[34] Accordingly, the presentation of buy-bust money is not indispensable to the prosecution of a drug case.[35]

Finally, appellants attribute ill motive to the civilian informant who, they allege, was denied a share in the reward for identifying drug traffickers. However, this accusation was based merely on suspicion and was unsubstantiated by any evidence. Appellants failed to show proof that the policemen were motivated by ill will in arresting them. None having been shown, the logical conclusion is that none actually existed.[36] We stress that Appellant Jimmy Tan even testified that he and his co-accused did not have any previous quarrel or misunderstanding with the arresting policemen. We quote from his testimony:

Q: Now you don't have any previous quarrels or misunderstanding with Police Officer Juan Pi[g]gangay or any of the members of the PNP Narcom who apprehended you and Ruel Eugenio at Reliance Store vicinity, is it not?

A: None, sir.

Q: You don't know of any reason why any of them would tell a lie against you and your co-accused, Ruel Eugenio?

A: None also, sir.”[37]

In sum, the prosecution established the guilt of the appellants beyond reasonable doubt.

WHEREFORE, the appeal is hereby DENIED and the assailed Decision AFFIRMED. Costs against appellants.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Written by Judge Ruben C. Ayson.

[2] RTC Decision, p. 10; rollo, p. 32.

[3] Rollo, p. 11; records, p. 1; signed by Prosecutor II Alfredo R. Centeno.

[4] See Order dated September 9, 1999; records, p. 26.

[5] Atty. Reynaldo Cortes.

[6] Appellee's Brief, pp. 2-7; rollo, pp. 94-99; signed by Solicitor Gabriel Francisco A. Ramirez Jr.

[7] Appellants' Brief, p. 2; rollo, p. 50; signed by Atty. Reynaldo A. Cortes.

[8] TSN, July 7, 2000, p. 2; TSN, August 28, 2000, pp. 2-4.

[9] Id., p. 4.

[10] Id., pp. 6-7.

[11] Id., pp. 7-8.

[12] Ibid.

[13] *Id.*, pp. 8-9.

[14] This case was deemed submitted for decision on May 30, 2002, upon receipt by this Court of appellee's Brief. Appellants' Brief was received by this Court on January 22, 2002. The filing of a reply brief was deemed waived, as none had been submitted within the reglementary period.

[15] Appellants' Brief, p. 2; rollo, p. 50.

[16] *People v. Rodriguez*, GR No. 144399, March 20, 2002; *People v. Ganenas*, GR No. 141400, September 6, 2001; *People v. San Juan*, GR No. 124525, February 15, 2002.

[17] *People v. Rodriguez*, *supra*; *People v. Aspiras*, GR Nos. 138382-84, February 12, 2002; *People v. San Juan*, *supra*; *People v. Hindoy*, 357 SCRA 692, May 10, 2001.

[18] *People v. Ganenas*, *supra*.

[19] TSN, March 20, 2000, p. 4.

[20] *Id.*, p. 11.

[21] *Id.*, p. 5.

[22] *Id.*, p. 4.

[23] *Id.*, pp. 11-12.

[24] TSN, May 12, 2000, p. 3.

[25] *People v. Del Mundo*, GR No. 138929, October 2, 2001; *People v. San Juan*, *supra*.

[26] *People v. Del Mundo*, *supra*, per Ynares-Santiago, J.

[27] *Id.*; *People v. Ganenas*, *supra*; *People v. Aspiras*, *supra*; *People v. San Juan*, *supra*.

[28] *People v. Ganenas*, *supra*.

[29] *People v. Beriarmente*, GR No. 137612, September 25, 2001.

[30] *Ibid.*

[31] *Ibid.*

[32] *People v. Rodriguez*, *supra*; *People v. Ganenas*, *supra*.

[33] *People v. Ganenas*, *supra*.

[34] *People v. Beriarmente*, *supra*.

[35] *People v. Ganenas*, *supra*.

[36] *People v. Hindoy*, *supra*.

[37] TSN, July 7, 2000, p. 17.

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