

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RANDY MAGBANUA ALIAS “BOYUNG” AND WILSON MAGBANUA, ACCUSED-APPELLANTS.

G.R. No. 170137. August 27, 2009

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This is an appeal from the September 28, 2005 Decision[1] of the Court Appeals (CA) in CA-G.R. CR-H.C. No. 01063, affirming the February 7, 2003 Decision[2] of the Regional Trial Court of Angeles City, Branch 59 (RTC) in Criminal Case No. 99-1569, convicting accused-appellants Randy Magbanua (Randy) and Wilson Magbanua (Wilson) for violation of Section 8, Article II of Republic Act (R.A.) No. 6425; sentencing them to reclusion perpetua, and ordering each of them to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

In an Information[3] dated December 8, 1999, accused-appellants were charged with illegal possession of four bricks of marijuana as follows:

That on or about the 26[th] day of November 1999 in front of KC 1, Mac-Arthur Hi-way, Brgy. Dau, Municipality of Mabalacat, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, RANDY P. MAGBANUA and WILSON P. MAGBANUA, conspiring, confederating together and mutually helping one another, without any authority of law, did then and there willfully, unlawfully and feloniously have in their possession, custody and control four (4) bricks of marijuana fruiting tops weighing THREE KILOS (3 kilos) and NINE HUNDRED TEN AND TWO HUNDRED SEVENTY-SIX TEN THOUSANDTHS (910.0276) of a gram, a prohibited drug.

Upon arraignment, accused-appellants pleaded not guilty and trial ensued thereafter.

On February 7, 2003, the RTC rendered a judgment of conviction.

xxx [O]n November 26, 1999 at around 11:50 o'clock in the morning, SPO1 Alberto M. Javier, Jr., upon instruction of P/S Insp. Jorge Bustos, was conducting traffic in front of KC 1, MacArthur Highway, Dau, Mabalacat, Pampanga with the assistance of PO2 Noel D. Cordero. The driver of a white Toyota Corolla car bearing plate no. ULR-467, which came from the north direction and heading south, disregarded SPO1 Javier's signal for the driver to stop to give way to the pedestrians crossing the street. Said driver sped away at 20 to 30 kph. Whereupon, PO2 Cordero, flagged down the driver. Upon being accosted, the driver rolled down his window. PO2 Cordero, who was then assisted by SPO1 Javier, asked for the driver's license. When the window was opened, the two police officers smelled the scent of marijuana coming from inside the car. PO2 Cordero, after noticing something at the back seat, ordered the driver and his male companion to alight from the car. When the occupants alighted, the police officers found on the back seat of the car four (4) bricks of marijuana fruiting tops individually wrapped in newspaper (Exhibits B to B-3). The two men accosted at that time were identified as brothers Wilson P. Magbanua and Randy P. Magbanua alias Boyung, the driver and passenger respectively, the accused in this case.

Immediately thereafter, the apprehending officers turned over to their office the lightly tinted car, a Tanita

weighing scale found on the dash board (Exhibit G), a cellular phone, and accused Randy and Wilson Magbanua for possession of suspected marijuana. PO2 Cordero, being the Duty Investigator then, conducted the investigation. The bricks of marijuana, which were confiscated from the car, were brought to the Philippine National Police Crime Laboratory for an examination. Said bricks were found to have a total weight of 3.766 kgs. and are positive for marijuana, a prohibited drug. Both accused implicated a Japanese national as their financier.

Forthwith, a follow-up investigation on Uehara Mikio, a Japanese national, was conducted and led by P/C Insp. Lamberto P. Ocampo, P/C Insp. Danilo C. Maniti and P/Insp. Jorge Antonio P. Bustos. At 4:00 o'clock in the afternoon of November 26, 1999, the police elements and the Magbanua brothers, armed with a Travel Order, went to Manila. Upon reaching Balintawak, Quezon City, the Magbanuas informed Uehara via cellular phone on the purchase of the marijuana stuff, with the communication that when the car's horn is blown upon reaching the hotel, Uehara will come out and ride at the back seat of the car where the marijuana will be placed for inspection. At around 7:20 o'clock in the evening, after the car's horn was blown, Uehara went out of the hotel and boarded the back seat of the car. While Uehara was examining the marijuana, SPO1 Sergio Manalo and PO3 Florante Narciso arrested Uehara and brought him to the Mabalacat Police Station.

PO2 Cordero and SPO1 Javier executed an Affidavit of Arrest (Exhibit D), and PO2 Cordero, an Investigation Report (Exhibit C). SPO3 Eduardo T. Raquidan filed a Criminal Complaint dated November 29, 1999 against the two accused and Uehara Mikio before the Municipal Circuit Trial Court of Mabalacat, Pampanga. Later on, the case was dismissed against Uehara only for lack of jurisdiction. On November 29, 1999, the confiscated bricks of marijuana were brought to the Philippine National Police Crime Laboratory in Camp Olivas, San Fernando, Pampanga for an examination. The four bricks of marijuana found in the car were found by Forensic Chemical Officer Ma. Luisa G. David to have a total weight of 3.766 kgs. and to be positive for marijuana, a prohibited drug.

Edgardo S. Reyes, the owners of the Toyota Corolla XL car with plate no. ULR-467, rents out his car to Antonio and Rose Palces, the owners of a rent-a-car shop. In December 1999, Reyes went with Palces to Mabalacat, Pampanga and was able to ask for the release of his car from impoundment for a drug case upon execution of an affidavit of undertaking.

The dispositive portion of the decision reads:

WHEREFORE, the Court finds accused RANDY P. MAGBANUA alias "BOYUNG" and WILSON P. MAGBANUA guilty beyond reasonable doubt of the offense of Violation of Section 8, Article III[4] of Republic Act No. 6425, as amended, and hereby sentences each of them to suffer the penalty of reclusion perpetua, to pay a fine of Five Hundred Thousand pesos (P500,000.00) each, and to pay the costs.

SO ORDERED.

Upon filing of a Notice of Appeal, the RTC elevated the records of the case directly to this Court. In the Resolution dated February 11, 2004, the Court accepted the appeal and required the parties to file their respective briefs. However, pursuant to the ruling in *People v. Mateo*,^[5] promulgated on July 7, 2004, the case was transferred to the CA.

On September 28, 2005, the CA rendered the herein challenged Decision affirming the decision of the RTC thus:

xxx There is no doubt that the charge of illegal possession of marijuana was proven beyond reasonable doubt since the accused-appellants knowingly possess the said prohibited drug as it was found at the back seat of the car, without legal authority. The four (4) bricks of dried suspected marijuana found in the accused-appellants' possession, upon laboratory examination, were positively identified as marijuana, a prohibited drug.

The incriminatory evidence on record adequately established the accused-appellants' guilt beyond moral

certainty for the possession of marijuana.

WHEREFORE, premises considered, the appeal is DISMISSED. Costs against the accused-appellants.

SO ORDERED.

In their respective briefs, the prosecution and the defense presented conflicting versions of the facts of the case.

While the prosecution stood by the facts as found by the RTC, accused-appellants claimed that the RTC and the CA erred in convicting them because their guilt was not proven beyond reasonable doubt. Even as they admitted that the marijuana was seized from the vehicle with them on board, they denied having knowledge of its existence. They offered a different version of the facts of the case.

According to accused-appellants, the marijuana belonged to a Japanese national, a certain Uehara Mikio. On November 26, 1999, Randy, who then worked as a driver for a rent a car service company, asked his brother Wilson to accompany him to Angeles, Pampanga to fetch a certain Mr. Tamayama, a Japanese national, and his Filipina companion at the America Hotel. Tamayama carried a black bag which accused-appellants placed at the trunk of the car. The party drove to the duty-free shop in Clark. After an hour, Tamayama and the girlfriend told accused-appellants to proceed to Paco Park Hotel where Uehara will pick up the bag from them. On their way to Manila, a policeman flagged down their vehicle, so they pulled over at the side of the road. The police officer allegedly told Wilson that the officer received information that accused-appellants were carrying guns. Wilson denied the accusation but the policeman forced him to open the compartment of the vehicle, took the bag and then ordered Randy to alight from the vehicle. Accused-appellants were then brought to the Mabalacat Police Station. The officer who took the baggage went inside a room. He later emerged with the bag forcibly opened and in it were the bricks of marijuana. Randy told the police officer that the owner of the bag was in Manila. They went to Manila in order to identify to the police officers Uehara, the owner of the bag. Uehara was thereafter arrested and brought to a restaurant in Pampanga. Accused-appellants insinuate that they were made fall guys in place of Uehara who had allegedly paid his way to freedom. Randy allegedly heard a certain Major Ocampo and Major Maniti asking Uehara if he could afford to give P300,000.00. Thereafter Uehara handed P150,000.00, a Rolex watch, a racket and a diamond ring to Major Ocampo.[6] P/C Insp. Lamberto Ocampo took part in the follow-up operations after the arrest of the accused-appellants. The latter were directed to call up the Japanese national who told them to buy marijuana. Wilson saw the arrest of the Japanese national at the Paco Park Hotel in Ermita, Manila.[7]

Accused-appellants contend that the CA committed reversible error in affirming the judgment of conviction of the RTC which relied heavily on the allegedly inconsistent, contradictory and implausible testimonies of prosecution witnesses SPO1 Alberto Javier (SPO1 Javier) and PO2 Noel Cordero.

Accused-appellants point to the inconsistencies in the testimony of prosecution witness SPO1 Javier. SPO1 Javier testified that when accused-appellants alighted from the vehicle, he found four (4) bricks of marijuana wrapped in newspaper, a weighing scale and a cellular phone. He identified the bricks of marijuana thru his initials.[8] However, on cross-examination, the same witness stated that he saw the weighing scale only when the same was brought to their office.[9] Likewise, SPO1 Javier denied placing his initials on the bricks of marijuana, and only saw the initials when the marijuana was presented in court.[10] Accused-appellants contend that if SPO1 Javier only saw the initials during the trial of the case, he could not have identified the specimens presented in court as the ones confiscated from accused-appellants.

According to accused-appellants, the two police officers could not agree as to how they were able to discover the presence of marijuana inside the vehicle. SPO1 Javier stated that it was PO2 Cordero who first approached the vehicle, ordered the accused-appellants to step down from the vehicle and then they smelled something in the car.

On the other hand, PO2 Cordero testified that it was SPO1 Javier who approached the vehicle and when the window was opened, that was the time they smelled something leading them to conduct an inspection inside the vehicle. Moreover, the trial court took into consideration the admission of the existence of bricks of marijuana and that these were found inside the car in arriving at its decision. However, accused-appellants argued that it was still incumbent upon the prosecution to prove their guilt beyond reasonable doubt.

We are not persuaded.

Contrary to accused-appellants' assertion, there is no real inconsistency between the testimonies of SPO1 Javier and PO2 Cordero.

While SPO1 Javier testified that aside from the marijuana, they also found a weighing scale inside the car, there is nothing on record that SPO1 Javier categorically stated that the same was found simultaneously with the marijuana. The testimonies of SPO1 Javier and PO2 Cordero were consistent in that they saw the weighing scale when it was brought inside their office.[11]

We find of little significance the fact that SPO1 Javier was not the one who placed his initials on the confiscated marijuana. PO2 Cordero explained that he was the one who placed his and SPO1 Javier's initials on the marijuana because he was the one tasked as the investigating officer even though SPO1 Javier was with him at the time the marijuana was discovered at the backseat of the car.[12] At any rate, during trial, SPO1 Javier easily identified the marijuana which had their initials affixed by PO2 Cordero.[13]

The two police officers also consistently testified that it was PO2 Cordero who flagged down the car and was the first to approach accused-appellants' car since it went past SPO1 Javier after Wilson ignored SPO1 Javier's halt signal to give way to crossing pedestrians. Thereafter, SPO1 Javier approached PO2 Cordero to assist him. The police officers smelled the aroma of marijuana after Wilson rolled down the car's window.[14] PO2 Cordero, after noticing something at the back seat, ordered the accused-appellants to alight from the car. Thereafter, the police officers found on the back seat of the car four (4) bricks of marijuana wrapped in newspaper.

The alleged inconsistencies in the testimonies of the two (2) police officers pointed out by the accused-appellants are not material but relate only to minor matters. What is essential in a conviction for violation of Section 8, Article II of R.A. No. 6425, as amended, is that the possession of the prohibited drug must be duly established.

As long as the testimonies of the witnesses corroborate each other on material points, the minor inconsistencies therein cannot destroy their credibility.[15] Such minor inconsistencies may even serve to strengthen their credibility as they negate any suspicion that their testimonies are fabricated or rehearsed. Even the most candid of witnesses commit mistakes and make confused and inconsistent statements.[16]

Generally, courts give full faith and credit to police officers for they are presumed to have performed their duties in a regular manner. Courts cannot simply set aside their testimonies where there is no showing that the search conducted on the accused-appellants was clearly violative of their constitutional rights or the said search was a mere ploy to extort on the part of the police officers. While on this subject, we declare accused-appellants' insinuation of mulcting on the part of Major Ocampo and Major Maniti to be unfounded. As pointed out by the RTC, the confiscation of Uehara's jewelry and watch was properly documented by Confiscation Receipts. The same were later on released to and received by Uehara's counsel.

Accused-appellants failed to show any motive why the arresting police officers would falsely impute a serious crime against them. Without such proof and with the presumption that official duty was performed regularly, the findings of the trial court on the credibility of witnesses shall prevail over accused-appellants' self-serving and uncorroborated denial.

Anent the contention that the absence of a confiscation receipt or inventory of the items confiscated from them casts doubt as to accused-appellants culpability of the crime charged, such argument deserves scant consideration.

In the case of *Yolly Teodosio y Blancaflor v. Court of Appeals and People of the Philippines*,^[17] the Court belittled the argument that the prosecution's case was weakened by the fact that the police officers did not issue a receipt for the confiscated drugs and declared that issuing such a receipt is not essential to establishing a criminal case for selling drugs as it is not an element of the crime. Neither is it an element of illegal possession of prohibited drug.

The evidence for the prosecution proved beyond reasonable doubt the elements necessary to successfully prosecute a case for illegal possession of a prohibited drug, namely, (a) the accused-appellants were in possession of an item or an object identified to be a prohibited or a regulated drug, (b) such possession was not authorized by law, and (c) the accused-appellants freely and consciously possessed said drug.^[18] Section 8, Article II of R.A. No. 6425, as amended, provides:

SEC. 8. Possession or Use of Prohibited Drugs. - The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall possess or use any prohibited drug subject to provisions of Section 20 hereof.

Under this Section, the mere possession of any prohibited drug consummates the crime. The charge of illegal possession of marijuana was proven beyond reasonable doubt as it was found at the back seat of the car with accused-appellants, without legal authority. The four (4) bricks of dried suspected marijuana found in the accused-appellants' possession, upon laboratory examination, were positively identified as marijuana, a prohibited drug.

As long as the integrity and the evidentiary value of the confiscated/seized items, are properly preserved by the apprehending officer/team, the failure to issue a receipt will not render the items seized/confiscated inadmissible as evidence. As held by the Court in *People v. Alvin Pringas*,^[19] what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.

Here, the integrity and the evidentiary value of the items involved were safeguarded. The seized drugs were immediately marked for proper identification. Thereafter, they were forwarded to the Crime Laboratory for examination.

Well-settled is the rule that prosecutions involving the possession of illegal drugs depend largely on the credibility of the police officer. This Court has access only to the cold and impersonal records of the proceedings. Thus, the Court relies heavily on the rule that the weighing of evidence, particularly when there are conflicts in the testimonies of witnesses, is best left to the trial court which had the unique opportunity to observe their demeanor, conduct, and manner while testifying. Hence, its factual findings are accorded respect, even finality, absent any showing that certain facts of weight and substance bearing on the elements of the crime have been overlooked, misapprehended or misapplied.^[20]

Accordingly, the Court finds and so holds that the CA committed no reversible error in affirming the decision of the RTC finding accused-appellants guilty beyond reasonable doubt of the crime of violation of Section 8, Article II of R.A. No. 6425, as amended.

WHEREFORE, the present appeal is hereby DISMISSED. The September 28, 2005 Decision of the CA in CA-G.R. CR-H.C. No. 01063 is hereby AFFIRMED.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Bersamin, JJ., concur.

- [1] Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Danilo B. Pine (ret.) and Vicente E. Veloso, concurring; rollo, pp. 3-13.
- [2] CA rollo, pp. 24-47.
- [3] Records, volume I, p. 2.
- [4] Should be Article II.
- [5] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.
- [6] TSN, April 23, 2002, pp. 2-8.
- [7] Record, pp. 93-94.
- [8] TSN, June 29, 2000, pp. 6-7.
- [9] TSN, July 25, 2000, p. 16.
- [10] TSN, July 25, 2000, p. 19.
- [11] TSN, July 25, 2000, p. 16; TSN, March 15, 2001, pp. 13, 17.
- [12] TSN, January 18, 2001, pp. 3-4.
- [13] TSN, June 29, 2000, pp. 6-7.
- [14] TSN, July 25, 2000, pp.12-14; TSN, October 26, 2000, pp. 7-10; TSN, March 15, 2001, p. 12.
- [15] People v. Emilio Rabutin, G.R. Nos. 118131-32, May 5, 1997, 272 SCRA 197, 206.
- [16] People v. Jose Bulan and Allan Bulan, G.R. No. 143404, June 8, 2005, 459 SCRA 550, 563-564.
- [17] G.R. No. 124346, June 8, 2004, 431 SCRA 194, 207.
- [18] People v. Khor, G.R. No. 126391, May 19, 1999, 307 SCRA 295.
- [19] G.R. No. 175928, August 31, 2007, 531 SCRA 828, 843.
- [20] People v. Chen Tiz Chang and Cheng Jung San a.k.a. Willy Tan, G.R. Nos. 131872-73, February 17, 2000, 325 SCRA 776, 778.

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