

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CLEMENCIA ARGUELLES Y TALACAY, ACCUSED-APPELLANT.

G.R. No. 186381. August 19, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is an appeal by accused Clemencia Arguelles y Talacay of the Court of Appeals (CA) Decision[1] dated August 19, 2008 in CA-G.R. CR-HC No. 02599 affirming accused's conviction by the Regional Trial Court (RTC) of Mandaluyong City[2] for violations of Republic Act No. 6425 (RA 6425), otherwise known as the Dangerous Drugs Act of 1972.

The facts of the case are as follows:

At about 10 o'clock in the morning of September 28, 1998, a female informant arrived at the Philippine National Police (PNP) Narcotics Unit in Camp Crame, Quezon City. She informed Police Officer 3 (PO3) Albert Colaler about a certain "Clemen", residing at Block 40, Martinez Street, Welfareville, Mandaluyong City, who allegedly requested the confidential informant to look for a buyer of P2,000 worth of marijuana. PO3 Colaler immediately relayed the information to his superior officer, Major Pedro Bualtabatingan. After speaking with the confidential informant, Major Bualtabatingan directed PO3 Colaler to accompany the confidential informant to the alleged residence of Clemen.[3]

At the residence of the accused, the confidential informant introduced PO3 Colaler to accused as a prospective buyer. PO3 Colaler told Clemen he intended to buy one kilo of marijuana. However, accused said that the item was not yet in her possession, and that PO3 Colaler should come back that afternoon or in the evening.[4] PO3 Colaler went back to the PNP Narcotics Unit office and reported to Major Bualtabatingan. At 7 o'clock that evening, the confidential informant returned to the PNP Narcotics Unit office and told PO3 Colaler that the marijuana had been delivered to the accused. Major Bualtabatingan then instructed PO3 Colaler to conduct a buy-bust operation. PO3 Colaler was to act as poseur-buyer, while PO2 Peter Sistemio was to act as the immediate back-up officer. Four other police officers served as perimeter security. The team was given a Voyager transceiver alarm, a P100-bill as marked money, and pieces of paper the size of the P100-bill to serve as boodle money, which were then placed in a white envelope.[5]

The team proceeded to accused's residence. PO3 Colaler and the confidential informant entered the house. Upon seeing them, accused got a traveling bag under a wooden bed. She opened the bag and asked for the payment. PO3 Colaler handed her the white envelope, and the accused, in turn, handed him a square package wrapped in newspaper. After receiving the package, PO3 Colaler placed his hand in his right pocket and pressed the alarm as a signal to the other members of the team that the sale had been consummated. He took out his gun, introduced himself as a police officer, and placed accused under arrest. The rest of the team arrived. PO2 Sistemio then retrieved the traveling bag, which revealed four bricks of suspected dried marijuana leaves and nine plastic sachets of what appeared to be marijuana also. PO3 Colaler retrieved the marked money from accused. PO3

Colaler then informed accused of her constitutional rights and brought her out of the house. Accused shouted and resisted arrest. When she shouted, an old woman came out of a nearby house and tried to run away. However, the police officers caught up with her and brought her to the PNP Narcotics Unit office as well.[6]

All the items retrieved from the buy-bust operation were turned over to SPO1 Rolando Duazon, the investigating officer, who then prepared the request for laboratory examination of the specimens. The laboratory report confirmed that the specimens recovered were indeed marijuana.

Accused, for her part, denied the charges against her. She claims that she is a widow and a fish vendor residing at Fabella Housing, Mandaluyong City. She alleged that on September 28, 1998, at around 8:30 in the evening, she was at the house of a certain Vicenta Jacinto, whom she visited weekly for her body massage. While she was standing by the door of the house, a commotion occurred and a man suddenly grabbed her left arm and wanted to talk to her. She was forced to go with the man and ended up at the PNP Narcotics Unit office in Camp Crame. She further alleged that the man who grabbed her was PO3 Colaler who, at that time, was not armed with a warrant for her arrest.[7]

During cross-examination, accused appeared confused and disoriented and denied the statement she gave on direct examination about the commotion at Vicenta Jacinto's house. She said she could not remember if a commotion took place or what exactly transpired on that day. However, on the continuation of her cross-examination the next day, accused said she did remember the commotion brought about by police officers looking for Vicenta Jacinto. She also said that she and Vicenta were brought to the PNP Narcotics Unit office.[8]

Accused was then charged under two separate Informations with, first, violation of Article II, Section 4 of RA 6425, for selling 493.3 grams of marijuana to PO3 Colaler and, second, for violation of Article II, Section 8, RA 6425 for having in her possession the four bricks and nine plastic sachets of marijuana.[9]

On December 11, 2006, the RTC rendered a Decision,[10] the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused, CLEMENCIA ARGUELLES y TALACAY, GUILTY of violation of Section 4 and 8, Article II of RA 6425, as amended in the aforementioned criminal information.

As a consequence of this judgment, the accused shall serve an imprisonment of reclusion perpetua and shall pay a civil indemnity of Five Hundred Thousand Pesos (Php500,000.00). The subject specimen of this case consisting of bricks of marijuana and dried leaves wrapped in newspaper and the nine plastic sachets containing marijuana shall be surrendered to the Dangerous Drugs Board for proper disposal.

Any period of preventive suspension shall be credited in favor of the accused in the service of her sentence in accordance with Article 29 of the Revised Penal Code.

The City Jail Warden for Mandaluyong City is directed to transfer the accused to the custody of the Correctional Institute for Women in Mandaluyong City for the service of her sentence.

SO ORDERED.[11]

Accused appealed her conviction to the Court of Appeals. The CA, in a Decision dated August 19, 2008, dismissed the appeal and affirmed the RTC Decision in toto.[12] Hence, accused is now before this Court interposing this appeal.

We deny the appeal.

The RTC and the CA both found that the prosecution established the guilt of the accused beyond reasonable doubt. We find no reason to disturb these findings. The RTC had the opportunity to examine the evidence and

observe the demeanor of the witnesses. Its findings of fact are given great weight, and because they were affirmed by the CA, they are binding upon this Court.

However, the RTC overlooked a very important matter. The accused was charged with two crimes, which, although arising from the same transaction, are distinct crimes under RA 6425, as amended by RA 7659.

Article II, Section 4 states:

Sec. 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs. - The penalty of reclusion perpetua to death and a fine from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or shall act as a broker in any of such transactions.

Notwithstanding the provisions of Section 20 of this Act to the contrary, if the victim of the offense is a minor, or should a prohibited drug involved in any offense under this Section be the proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed.

Article II, Section 8, on the other hand, 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 the provisions of Section 20 hereof.

Therefore, the accused must be meted separate penalties for each of the offenses. Accordingly, the penalty to be imposed should be two counts of reclusion perpetua, the appropriate penalty for the offenses.

WHEREFORE, the foregoing premises considered, the appeal is DISMISSED and the Decision of the Court of Appeals dated August 19, 2008 in CA-G.R. CR-HC No. 02599 is AFFIRMED WITH MODIFICATION. Accused is hereby sentenced to two counts of reclusion perpetua to be served simultaneously. In all other respects, the trial court's Decision is affirmed.

SO ORDERED.

Carpio, Chico-Nazario, Velasco, Jr., and Peralta, Jr., concur.

[*] Additional member in lieu of Associate Justice Consuelo Ynares-Santiago per Special Order No. 679 dated August 3, 2009.

[**] In lieu of Associate Justice Consuelo Ynares-Santiago per Special Order No. 678 dated August 3, 2009.

[1] Penned by Associate Justice Isaias Dicdican, with Associate Justices Juan Q. Enriquez, Jr. and Marlene Gonzales-Sison, rollo, pp. 2-20.

[2] RTC Decision, CA rollo, pp. 22-30.

[3] Rollo, p. 5.

[4] Id.

[5] Id.

[6] Id. at 5-6.

[7] Id. at 7.

[8] Id. at 7.

[9] CA rollo, p. 22.

[10] Penned by Judge Marissa M. Guillen, CA rollo, pp. 22-30.

[11] CA rollo, p. 30.

[12] Rollo, p. 19.

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