

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO RAMOS Y GAERLAN, DEFENDANT-APPELLANT.*G.R. No. 59318. May 16, 1983*

Ponente: GUERRERO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-59318/>**GUERRERO, J.:**

This is an automatic review of the decision of the Court of First Instance of Manila finding the accused Rogelio Ramos y Gaerlan in Criminal Case No. 61029 guilty beyond reasonable doubt of violation of Section 4, Article II, in relation to Section 2(i), Article I of the Republic Act No. 6425, as amended by P.D. No. 44 and further amended by P.D. No. 1675, and imposing upon him the penalty of reclusion perpetua.

There is no dispute about the facts of this case. At about 10:00 o'clock in the evening of May 3, 1981, while P/Lt. E. Mediavillo and P/Sgt. A. Linga were on routine patrol along Taft Avenue, they had seen and observed one MALCON OLEVERE y NAPA, acting suspiciously near the corner of Estrada Street.[1] The police officers, after identifying themselves, stopped and frisked the suspect and found in his possession dried marijuana leaves.[2] The police officers thereafter placed Malcon Olevere under arrest. Upon investigation, suspect Olevere declared that he bought the recovered marijuana leaves from one ROGELIO RAMOS y GAERLAN, alias "Balanchoy".[3]

The following day, May 4, 1981 at about 12:00 o'clock noon, a police team with suspect Malcon Olevere y Napa proceeded to the residence of appellant Rogelio Ramos y Gaerlan in 2366 Singalong, Malate, Manila and arrested him. The police operatives immediately brought appellant to the Drugs Enforcement Section Western Police Department Headquarters for investigation.

During the custodial investigation, suspect Malcon Olevere executed a written sworn statement implicating the accused-appellant Rogelio Ramos as the source of the marijuana leaves.[4] The accused, after having been duly apprised of his constitutional rights, verbally admitted before Lt. E. Mediavillo and Sgt. A. Linga the commission of the offense charged. He likewise admitted that he sold to Malcon Olevere the marijuana leaves for P10.00.[5]

On May 22, 1981, upon arraignment, the accused-appellant Ramos entered a plea of not guilty to the information filed by assistant fiscal Antonio J. Ballena which states:

"That on or about May 4, 1981, in the City of Manila, Philippines, the said accused, not being authorized by law to sell, deliver, give away to another or distribute any prohibited drug, did then and there willfully and unlawfully sell or offer for sale and deliver dried marijuana leaves, which is a prohibited drug.

Contrary to law."[6]

At the trial, the prosecution presented three witnesses to wit: Patrolman Jaime Cruz, a police investigator, Patrolman Agapito Linga, a police agent, and Felisa Vequilla, an NBI forensic chemist.

Patrolman Cruz testified that on May 5, 1981, he investigated and took down the sworn statement of one Malcon Olevere who disclosed that the accused-appellant Ramos was the source of the marijuana leaves. Patrolman Cruz also testified that he prepared the Booking Sheet and Arrest Report of the appellant Ramos and the corresponding

Crime Report.[7] Patrolman Agapito Linga declared on the witness stand that Lt. Mediavilla arrested appellant Ramos because Malcon Olevere declared that the appellant sold to him the confiscated marijuana leaves.[8] The third witness, Felisa Vequilla, a forensic chemist, affirmed that after conducting a dangerous drug test, the leaves confiscated from Malcon Olevere are positive for marijuana.[9]

The prosecution offered the following as documentary evidence:[10]

Exhibit "A" The Booking Sheet and Arrest Report of accused Rogelio Ramos prepared by witness Patrolman Cruz which was offered as part of his testimony;

Exhibit "B" Crime Report dated May 6, 1981 also prepared by the witness Patrolman Cruz;

Exhibit "B-1" second page of Exhibit "B";

Exhibit "C" Sworn Statement of Malcon Olevere y Napa;

Exhibit "C-1" to "C-2" The bracketed portions of Exhibit "C" stating among others that it was Rogelio Ramos herein accused who furnished Malcon to Olevere the marijuana leaves;

Exhibit "D-1" marijuana leaves examined;

Exhibit "E" the envelope containing the marijuana leaves which was confiscated from Malcon Olevere.

After the trial, the Court of First Instance of Manila (now the Regional Trial Court) found the accused-appellant Ramos guilty beyond reasonable doubt of the crime charged in view of the verbal admission given by the appellant himself and the evidence offered and admitted in court. The dispositive portion of its judgment reads:

"WHEREFORE, accused ROGELIO RAMOS y GAERLAN is hereby found guilty beyond reasonable doubt of a violation of Section 4, Article II in relation to Section 2(i), Article I Republic Act No. 6425, as amended by PD 44 and further amended by PD 1675 as charged in the present information, for selling subject prohibited drugs (marijuana leaves) without any lawful authority and is hereby sentenced to suffer the penalty of reclusion perpetua (life imprisonment); to pay a fine of Twenty Thousand (P20,000.00) pesos, without any subsidiary imprisonment in case of insolvency; and to pay the costs. Let the accused be given full credit of the entire period of his preventive imprisonment.

Subject marijuana leaves (Exhibit E) are confiscated, to be destroyed by the Dangerous Drugs Board pursuant to law.

SO ORDERED."[11]

The case is now before Us for automatic review. Accused-appellant submits before this Honorable Court the following errors:[12]

I

That the court erred in finding the accused guilty of violation of Section 4 Article II of Republic Act No. 6425 otherwise known as the Dangerous Drugs Act of 1972, as amended (Selling-Pushing).

II

That the court erred in its findings both in question of law and fact in convicting the accused notwithstanding the failure of the prosecution to adduce the quantum of evidence necessary to establish the guilt of the accused beyond reasonable doubt by failing to present Malcon Olevere y Napa, the person who claimed that it was the therein accused who allegedly sold the marijuana leaves.

III

That the constitutional rights of the accused, more particularly the right to meet the witness against him face to face and to cross-examine him has been violated.

IV

That the court has acted with grave abuse of discretion amounting to a denial of due process of law.

The principal issue in this case is whether there is competent and/or admissible evidence in the record to justify the conviction of the accused-appellant Ramos.

We find petitioner's case meritorious. The lower court erred in admitting as evidence the written sworn affidavit of Malcon Olevere. It can be gleaned from the records that Malcon Olevere executed the written sworn statement declaring that appellant Ramos sold to him the marijuana leaves for P10.00. This piece of evidence is a mere scrap of paper because Malcon Olevere was not produced in court for cross-examination. An affidavit being taken ex-parte is often incomplete and inaccurate.[13] Such kind of evidence is considered hearsay.[14] The constitutional right to meet witnesses face to face[15] in order not to deprive persons of their lives and properties without due process of law is well-protected in our jurisprudence. Thus, in *People vs. Toledo*,[16] We elucidated:

"Testimony in open court in actual trial cannot be equated with any out-of-court declaration, even when the witness has in fact been confronted already by the defendant. The direct relevance of the trial to the ultimate judgment as to the guilt or innocence of the accused is not present in any other proceeding and is thus a factor that can influence materially the conduct and demeanor of the witness as well as the respective efforts of the counsels of the parties."

For the court to admit the sworn statement of Malcon Olevere without giving the adverse party the right to cross-examine him would easily facilitate the fabrication of evidence and the perpetration of fraud. The inadmissibility of this sort of evidence is based, not only on the lack of opportunity on the part of the adverse party to cross-examine the affiant,[17] but also on the commonly known fact that, generally, an affidavit is not prepared by the affiant himself but by another who uses his own language in writing the affiant's statements which may either be omitted or misunderstood by the one writing them.[18]

The Booking Sheet and the Dangerous Drug Report of chemist Felisa Vequilla which were presented as evidence by the prosecution, established nothing to support the conviction of the appellant herein. For the same reason, that Malcon Olevere was not presented as a witness and insofar as they impute to appellant the commission of the crime charged, the adduced evidence are nothing but hearsay evidence. They cannot be regarded as competent evidence as to the veracity of the contents therein.

It is not disputed that the marijuana leaves recovered and tested by witness Vequilla came from Malcon Olevere and not from appellant. It would be absurd and manifestly unjust to conclude that appellant had been selling marijuana stuff just because what were recovered from Olevere were real marijuana. Proof of one does not necessarily prove another. Nowhere can it be found on the record that appellant was caught in possession or in the act of selling the prohibited marijuana leaves.

The oral testimonies given by the witnesses for the prosecution prove nothing material and culpable against the accused. As correctly pointed out by the Solicitor General, not anyone of the three witnesses presented testified on the basis of their personal knowledge that the appellant sold the marijuana leaves to Malcon Olevere. Under Rule 130, Sec. 30 of the Revised Rules of Court, "a witness can testify only to those facts which he knows of his own knowledge, that is, which are derived from his own perception . . ."

A witness, therefore, may not testify as to what he merely learned from others, either because he was told or having read or heard the same. Such testimony is considered hearsay and may not be received as proof of the truth

of what he has learned. Since Malcon Olevere was not presented as a witness, the testimonies offered by the witnesses for the prosecution are regarded as hearsay, insofar as they impute to the appellant the commission of the offense charged.

The lower court, in convicting appellant of the crime charged, partly relied on the verbal admission made by appellant himself before Lt. Mediavillo and Sgt. Linga during the custodial investigation. Although the records prove that the appellant has been duly apprised of his constitutional rights to silence and to counsel,[19] We are not fully convinced that this appraisal was sufficiently manifested and intelligently understood and accepted by the appellant. This is fatal to the admissibility of appellant's verbal admission. We have repeatedly emphasized that care should be taken in accepting extrajudicial admissions, especially when taken during custodial investigation. In *People vs. Caguioa*,[20] We ruled:

"As for the procedural safeguards to be employed, unless other fully effective means are devised to inform accused persons of their right to silence and assure a continuous opportunity to exercise it, the following measures are required. Prior to questioning, the person must be warned that he has a right to remain silent, that any statement he does make be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The defendant may waive effectuation of those rights provided the waiver is made voluntarily, knowingly and intelligently. If however, he indicates in any manner and at any stage of the prosecution that he wishes to consult with an attorney before speaking, there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him. The mere fact that he may have answered some questions or volunteered some statements on his own does not deprive him of the right to refrain from answering any further inquiries until he has consulted with an attorney and thereafter consents to be questioned."

Again, the constitutional rights of the accused to silence and to counsel is fortified in the very recent case of *Morales and Moncupa vs. Enrile*[21] where this Court said:

"At the time a person is arrested, it shall be the duty of the arresting officer to inform him of the reason for the arrest and he must be shown the warrant of arrest, if any. He shall be informed of his constitutional rights to remain silent and to counsel, and that any statement he might make could be used against him. The person arrested shall have the right to communicate with his lawyer, a relative, or anyone he chooses by the most expedient means - by telephone if possible - or by letter or messenger. It shall be the responsibility of the arresting officer to see to it that this is accomplished. No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, by any person on his behalf, or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence."

In the case at bar, appellant has only finished Grade VI,[22] which means that he is not adequately educated to understand fairly and fully the significance of his constitutional rights to silence and to counsel. As mandated, it is not enough that the police investigator merely informs him of his constitutional rights to silence and to counsel, and then taking his statements down, the interrogating officer must have patience in explaining these rights to him. The records do not reveal that these requirements have been fully complied with, nor was there any showing that appellant has been represented by counsel during custodial investigation. In consonance with Section 20 of the Bill of Rights which states that "any confession obtained in violation of this section shall be inadmissible in evidence," We hold that the verbal admissions of appellant during custodial investigation may not be taken in evidence against him.

We hold and rule that the guilt of the accused has not been established beyond reasonable doubt and he is,

therefore, entitled to acquittal.

WHEREFORE, IN VIEW OF THE FOREGOING, the decision of the Court of First Instance of Manila is REVERSED, and appellant is hereby ACQUITTED of the crime charged in the information. No costs.

SO ORDERED.

Makasiar (Chairman), Concepcion Jr., Abad Santos, De Castro and Escolin, JJ., concur.
Aquino, J., no part.

[1] Tsn, September 24, 1981, pp. 1-2.

[2] Record of Criminal Case No. 61029, p. 1.

[3] Tsn, September 24, 1981, pp. 2-3; Exhibit C.

[4] Exhibit C.

[5] Booking Sheet, Exhibit A.

[6] Record of Criminal Case No. 61029, p. 1.

[7] Tsn, September 24, 1981, pp. 1-3.

[8] Tsn, October 2, 1981, pp. 2-4.

[9] Tsn, October 2, 1981, pp. 1-2.

[10] Tsn, October 28, 1981, p. 1.

[11] Rollo, p. 007.

[12] Rollo, p. 52.

[13] *People vs. Rodulfo Sabio*, 102 SCRA 232; *People vs. Pacala*, 58 SCRA 370, citing *Moore on Facts* 1094-1095; *People vs. Tan, et al.*, 89 Phil. 337, 341.

[14] *Paa vs. Chan*, 21 SCRA 753; *People vs. Kusain Saik*, L-17060, May 30, 1963; *Vda. de Gregorio vs. Go Chong Bing*, 102 Phil. 557; *Soriano vs. Heirs of Magali*, L-15133, July 31, 1963; *Marifosque vs. Luna*, 9095, May 25, 1957; *Community Investment and Finance Corporation vs. Garcia*, 88 Phil. 215; *Duldulao vs. Ramos*, L-4615, Nov. 20, 1951.

[15] According to Section 19 of the Bill of Rights: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved and shall enjoy the right to . . . meet the witnesses face to face . . ."; *People vs. Señeres*, 99 SCRA 99: "The Constitutional right of confrontation, which guarantees to the accused the right to cross-examine the witness for the prosecution, is one of the most basic rights of an accused person under our system of justice."

[16] 85 SCRA 355.

[17] *People vs. Paglaliwagan*, 76 Phil. 457.

[18] *People vs. Marinquira*, 84 Phil. 39.

[19] According to Article IV, Section 20 of the Constitution: "No person shall be compelled to be a witness

against himself. Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right. No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence."

[20] 95 SCRA 2.

[21] G.R. No. 61016 promulgated on April 26, 1983.

[22] Tsn, November 10, 1981, p. 9.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.