

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GEORGE A. LUCES, DEFENDANT-APPELLANT.

G.R. No. 60744. November 25, 1983

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

George A. Luces was accused of selling a prohibited drug in the defunct Court of First Instance of Cebu. The information against him reads as follows:

"That on or about the 2nd day of May, 1981, at about 10:00 o'clock in the morning, and for sometime subsequent thereto, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there sell, deliver, give away to another prohibited drugs consisting of one Manila envelope of Marijuana or Indian hemp without being authorized by law." (Expediente, p. 1.)

Luces was tried and thereafter the court rendered the following judgment:

"THE FOREGOING CONSIDERED, this court finds the accused, George Luces y Alcantara alias Bebot, guilty beyond reasonable doubt of the crime involving the sale and delivery of Indian hemp as defined and penalized in accordance with Sec. 4, Art. 2 of Rep. Act 6425, as amended, and hereby imposes upon him, by way of imprisonment, the penalty of reclusion perpetua and a fine of P20,000.00, with costs against him, and the forfeiture in favor of the government of the Indian hemp, subject matter of this case. Without subsidiary imprisonment as provided for in Rep. Act 5465." (Expediente, pp. 43 and 57.)

The evidence of the prosecution is stated in the People's brief as follows:

"On May 2, 1981, a civilian informer went to the office of the CANU (Constabulary Anti-Narcotics Unit) at Fuente Osmeña, Cebu City, and gave the information that there was a certain pusher by the name of "Bebot" (appellant herein, whose full name is George Luces y Alcantara) residing at Lucio Lopez Drive (p. 3, tsn, 1982).

"The informer was told by Major [Digman] Cenon, the Commanding Officer, to return on the following day because he (Major Cenon) had to secure money for the 'operation' (supra).

"Two days after or on May 4, 1981, the informer returned. After a short briefing, the informer was given four one hundred peso bills, the serial numbers of which were listed in the police blotter, to be used in buying marijuana from appellant. (p. 4, *ibid*).

"At around 10:00 o'clock in the morning, three policemen, Cpl. Martin Cabatingan, Pfc. Diano and Pat. Ocampo, proceeded to Lucio Lopez Drive where the informer and appellant were supposed to meet. Upon reaching the place, the policemen placed themselves in strategic positions where they could watch the informer and appellant (p. 6, *ibid*). Not long after, the informer arrived. The informer and appellant had a short conversation, after which the latter left. A few minutes later, appellant returned with a brown envelope (pp. 6-7, *ibid*). Appellant gave the envelope to the informer. After the informer had examined the contents of the

envelope, he gave the money to appellant (p. 8, *ibid*).

"Corporal Cabatingan then called Major Cenon who brought with him a search warrant. When Major Cenon arrived, they apprehended appellant. They also searched appellant's residence at Lucio Lopez Drive and found a clay pot planted with mari-juana. From the wallet of appellant, the policemen recovered the four one hundred peso bills (pp. 8-9, *ibid*).

"An information for violation of the Dangerous Drugs Act was filed against appellant. After trial, he was found guilty and sentenced accordingly. Hence this appeal." (At pp. 1-3.)

Accused George Luces abstained from presenting evidence. After the prosecution had rested its case on February 9, 1982, this is what transpired:

"ATTY CAMISO [for the defense]:

Your Honor please, we pray for a time element we can prepare the accused. Because of the sudden incarceration of the accused, we were not able to confer with him and the record will show that the one who is actually handling this case is Atty. Froilan Quijano and he is the one responsible for representing this accused, Your Honor.

In view of the foregoing, Your Honor, we ask for enough time to confer with the accused.

COURT:

There was a trial time limit of 90 days. As a matter of fact, 90 days have passed.

Petition denied. Hearing at 2:00 o'clock.

[Note: As amended by P.D. No. 44 on November 9, 1972, Section 39 of the Dangerous Drugs Act of 1972 reads in part as follows: "Trial of the cases under this section shall be finished by the court not later than ninety (90) days from the date of the filing of the information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of sub-mission of the case."]

SESSION ADJOURNED: - 12:20

x - -----
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WHEN THIS CASE WAS CALLED AGAIN FOR RESUMPTION OF HEARING ON FEB. 9, 1982, at 2:25 P. M. -

COURT:

Proceed.

FISCAL AVILA:

The same appearance for the state, Your Honor.

ATTY. CAMISO, JR.:

The same appearance for the accused, Your Honor.

COURT:

Proceed.

ATTY CAMISO, JR.:

Your Honor please, we reiterate our request that we be given sufficient time to prepare our defense.

COURT:

Petition denied.

ATTY CAMISO:

In that case, Your Honor, we are no longer presenting the accused as a witness.

COURT:

Okay, submitted for decision?

ATTY CAMISO:

Submitted for decision.

FISCAL AVILA:

Submitted for decision.

COURT:

Session adjourned." (TSN, pp. 9-10.)

The appellant makes the following assignment of errors:

"I - THE EVIDENCE OF THE PROSECUTION WAS INSUFFICIENT TO CONVICT THE ACCUSED BEYOND REASONABLE DOUBT OF THE CRIME OF SELLING PROHIBITED DRUGS IN VIEW OF ITS FAILURE TO PRESENT AS A WITNESS THE ALLEGED 'BUYER', TEDDY PEPITO.

II - THE LOWER COURT ACTED WITH PREJUDICE, BIAS AND HOSTILITY AGAINST ACCUSED-APPELLANT IN NOT GRANTING THE APPELLANT'S REQUEST FOR A LITTLE TIME TO PREPARE HIS EVIDENCE AFTER THE PROSECUTION RESTED ITS CASE – IT APPEARING THAT THE ACCUSED WAS SUDDENLY INCARCERATED WHEN THE COURT UNEXPECTEDLY INCREASED THE BAIL BOND TO P30,000.00 WITHOUT PRIOR NOTICE, AND CONSIDERING FURTHER THE GRAVITY OF THE OFFENSE CHARGED." (Brief, p. 1.)

The prosecution presented two witnesses, namely: Myrna Areaola, a forensic chemist who testified that the content of the enve-lope which she was asked to examine was marijuana; and Corporal Martin Cabatingan whose testimony is summarized in the People's brief.

The appellant now complains that nobody corroborated the testimony of Cabatingan. The appellant avers that Major Cenon and Patrolmen Diano and Ocampo and especially the informer should have testified.

There is no merit in the first assignment of error. For except in treason where the testimony of at least two witnesses to the same overt act is needed, there is no law which requires that the testimony of a single witness has to be corroborated. "In the determination of the values and credibility of evidence, witnesses are to be weighed and not numbered (People vs. Marasigan, L-2235, Jan. 31, 1950; 47 Off. Gaz. No. 7, p. 2529). The testimony of only one witness, if cre-dible and positive; an unsupported evidence of an accomplice, if it satisfies the court beyond reasonable doubt, is sufficient to convict." (People v. Argana, L-19448, Feb. 28, 1964; 10 SCRA 311, 317.)

In the case at bar the unrebutted and lengthy testimony of Cabatingan who was subjected to cross-examination has

proved the case for the prosecution; it is sufficient.

The other assignment of error must also fail for the appellant had ample time to prepare for his defense.

The record shows that the appellant was released on June 23, 1981, when he posted a cash bail of P500.00. On February 3, 1982, bail was increased to P30,000.00. He was re-committed to jail when he was unable to post the upgraded bail. The appellant, therefore, had over seven months to prepare for his trial. Even after he had been re-committed the appellant had ample time to prepare for trial.

It may be allowed that the bail of P30,000.00 is somewhat excessive under the circumstances but such fact does not prove that the trial judge was biased or hostile against the appellant.

The Solicitor General states:

"Proper Penalty to Be Imposed

It must be noted that the court imposed the penalty of reclusion perpetua upon the appellant. The appropriate maximum penalty under Sec. 4, Article II of R.A. 6425 should be twenty years because there is no showing that the marijuana caused the death of a person.

CONCLUSION AND RECOMMENDATION

WHEREFORE, it is respectfully recommended that, except for the modification reducing the penalty from reclusion perpetua to an indeterminate penalty of TWELVE (12) YEARS and ONE (1) DAY to TWENTY (20) YEARS, the appealed decision be affirmed in all respects, with costs against appellant." (Brief, pp. 8-9.)

The Solicitor General errs in respect of the penalty. The appellant committed the offense on May 2, 1981 P.D. No. 1675 which took effect on February 17, 1980, amended R. A. No. 6425, otherwise known as the Dangerous Drugs Act of 1972 so that Section 4 thereof reads as follows:

"Sec. 4. Sale, Administration, Delivery, Distribution and Transportation of prohibited Drugs. – The penalty of life imprisonment to death and a fine ranging from twenty thousand to thirty thousand 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. 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."

WHEREFORE, the judgment of the trial court being in accord with the facts and the law is hereby affirmed in toto with costs against the appellant.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Guerrero, and Escolin, JJ., concur.
De Castro, J., on sick leave.

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