

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO FLORES, DEFENDANT-APPELLANT.

G.R. No. 65647. August 30, 1988

Ponente: CORTES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-65647/>

CORTES, J.:

Ernesto FLORES appeals from a decision of the Regional Trial Court of Quezon City, Branch 87, finding him guilty of violating Article II, Section 4 of Republic Act No. 6425, as amended, and sentencing him to life imprisonment as well as to pay a fine of P20,000 and the costs.

The City Fiscal of Quezon City filed an information against FLORES as follows:

That on or about the 21[st] day of August, 1980, in Quezon City, Philippines, the said accused, a person not authorized by law, did, then and there wilfully, unlawfully and knowingly, without authority, sell and deliver fifteen (15) dried marijuana stalks to a poseur-buyer in the amount of ten pesos (P10.00) along E. de los Santos Avenue, Balintawak, Quezon City, in violation of the aforesaid Republic Act No. 6425.

CONTRARY TO LAW. (Rollo, p. 4.)

On arraignment, FLORES entered a plea of not guilty. After due trial, the court a quo rendered a decision dated 17 October 1983, finding him guilty as charged, the decision's fallo reading as follows:

WHEREFORE, judgment is hereby rendered finding accused Ernesto Flores guilty beyond reasonable doubt of the crime of selling marijuana described and penalized under Article II, Section 4 of R.A. 6425, as amended. He is hereby sentenced to life imprisonment and to pay a fine of P20,000. Costs against accused.

IT IS SO ORDERED. (Rollo, p. 46.)

In arriving at its conclusion, the court relied on the prosecution's version of the incident, culled from the testimony of Sgt. Angel Nieves as follows:

On 20 August 1980, at about 5:00 p.m., Sgt. Angel Nieves and CIC Godofredo Fider, both of the Constabulary Anti-Narcotics Unit, (CANU for short) conducted a "test-buy" operation in Balintawak, Quezon City in connection with the government drive against violators of Republic Act No. 6425, as amended, also known as the Dangerous Drugs Act. They were assisted by Annalisa Santos, a confidential informer who acted as the buyer. After Santos was given P10.00 to buy marijuana, they all went to an alley in the vicinity of the squatters' area near the Cloverleaf interchange. The CANU agents waited out of sight as Santos bought five sticks of the illegal drug. The CANU agents then left with the informer, but did not arrest the pusher.

The next day, the agents planned a "buy-bust" operation in order to nab the culprit. Sgt. Nieves, with CIC Fider and Pfc. Wilfredo Tamondong, again gave two P5.00 bills to the confidential informer to purchase marijuana in the same place. From a distance, Sgt. Nieves followed the confidential informer into the interior of the squatters' area. He saw her talking to a young boy. The boy left, and the confidential informer, Annalisa Santos, waited

beside a store. Sgt. Nieves approached the store and talked to the storeowner in the pretext of looking for a boarding house. While there, he saw the accused arrive and give the marijuana stalks to Santos, who in turn gave the two P5.00 bills to him. Sgt. Nieves then introduced himself as a CANU agent and then arrested the accused. He confiscated the two (2) five peso bills and the 15 marijuana stalks which stalks were turned over to the NBI for laboratory examination and were later confirmed to be marijuana as attested to by NBI Forensic Chemist Nelly Carriaga.

On that same day, Sgt. Nieves and his fellow agents submitted a joint affidavit giving their account of the event (Exh. "A".)

Refuting the prosecution's version, the accused presented his own testimony corroborated by his witnesses, Quintin Carpio and Benita Cleofas. He alleged that in the morning of 21 August 1980 he worked as a painter in the residence of barangay councilman Quintin Carpio. At noontime, he passed by the store of Benita Cleofas to buy viand as he usually did. Suddenly, without warning, somebody poked a gun at him and hit him in the breast and at the back. A man then placed a plastic packet in his right hip pocket. He was forced to board a car and brought to a building, which he found out later, was the CANU headquarters in Malabon. He was frisked, and the plastic packet, taken from him. He was tortured and beaten, and then forced to sign a written confession. He vehemently denied selling marijuana to the buyer-poser.

From the decision, FLORES interposed this appeal, and contends that the trial court erred:

FIRSTLY IN ADMITTING THE "CONFESSION" OF THE ACCUSED GIVEN DURING CUSTODIAL INTERROGATION WITHOUT BEING SUFFICIENTLY INFORMED OF HIS RIGHTS, WITHOUT THE ASSISTANCE OF COUNSEL, AND WITHOUT AN EXPRESS WAIVER OF SUCH RIGHT.

SECONDLY IN GIVING "FULL FAITH AND CREDIT" TO THE TESTIMONY OF THE WITNESS, SGT. ANGEL NIEVES DESPITE THE SUBSTANTIAL INCONSISTENCIES THEREIN WITH RESPECT TO THE ELEMENTS OF THE OFFENSE CHARGED, SPECIFICALLY AS TO THE TIME OF THE APPREHENSION, THE ALLEGED MARKED MONEY USED TO ENTRAP THE ACCUSED, HIS KNOWLEDGE OF THE ACCUSED, THE CONFLICTING TESTIMONY OF OTHER WITNESSES FOR THE PROSECUTION, AND OTHER CIRCUMSTANCES TO NEGATE SUCH BLANKET FAITH IN THE ARRESTING OFFICER.

THIRDLY IN CONVICTING THE ACCUSED DESPITE THE ABSENCE OF A CLEAR SHOWING THAT HE WAS GUILTY BEYOND REASONABLE DOUBT, CONSIDERING THAT THE PRINCIPAL WITNESS, THE BUYER POSER, WAS NOT PRESENTED AS WITNESS, AND THE TOTALITY OF THE FACTS AND CIRCUMSTANCES CONTAINED IN THE RECORD, NEGATE A CONVICTION. (Rollo, p. 71.)

The principal issues here are: 1) whether the extrajudicial confession of the accused is admissible in evidence against him, and 2) whether from the evidence presented, the guilt of FLORES has been proved to a moral certainty.

Anent the question of the inadmissibility of his confession, FLORES's statement reveals the following:

PASUBALI:

Ikaw ginoong Ernesto Flores ay nasa ilalim ng pagsisiyasat sa kasalanang paglabag sa ipinagbabawal na gamot gaya ng marihuana, ngunit bago kita tanungin ay nais kung (sic) ipaliwanag sa iyo ang iyong mga karapatan alinsunod sa ating Bagong Saligang Batas ng Pilipinas, ng gaya ng mga sumusunod:

"Na ikaw ay may karapatang manahimik o huwag sumagot sa mga itatanong sa iyo".

"Na sa anumang sasabihin mo sa pagsisiyasat na ito ay maaring gamiting evidensiya laban o pabor sa iyo sa alinmang hukuman dito sa ating Bansa".

"Na ikaw ay may karapatang kumuha ng manananggol upang sumubaybay sa iyo at kung hindi mo kaya ang humirang ng isa ang tanggapang ito ang bahalang humirang ng isa para sa iyo".

TAGASIYASAT:

Naunawaan at naintindihan mo bang lahat ang mga ipinaliwanag ko sa iyo?

SINISIYASAT: Opo.

TANONG:

Matapos mong maunawaan ang iyong mga karapatan nakahanda ka bang magbigay ng malaya at kusang loob na salaysay, na ikaw ay hindi pinipilit, tinakot, sinaktan o pinangakuan ng anumang bagay?

SAGOT: Opo sir. (Exh. "G", Folder of Exhibits.)

Precedents abound showing that this kind of "advice" given to the accused does not satisfy the constitutional guarantees accorded a person under investigation for the commission of an offense. This protection given under the 1973 Constitution is further expanded by the 1987 Constitution [Article III, Sec. 12 (1)-(4).] In *People v. Jara* [G.R. Nos. 61356-57, September 30, 1986, 144 SCRA 516], this Court had the opportunity to assail the kind of recitation of rights similar to the one in the present case:

This stereotyped "advice" appearing in practically all extrajudicial confessions which are later repudiated has assumed the nature of a "legal form" or model. Police investigators either auto-matically type it together with "Opo" as the answer or ask the accused to sign it or even copy it in their handwriting. Its tired, punctilious, fixed and artificially stately style does not create an impression of voluntariness or even understanding on the part of the accused. The showing of a spontaneous, free and unconstrained giving up of a right is missing.

This Court has observed that the long question of the investigator informing appellant of his right to remain silent and to counsel followed by a monosyllabic answer, does not satisfy the requirements of the law that the accused be informed of his rights under the Constitution [*People v. Taruc*, G.R. No. 74655, January 20, 1988, citing *People v. Galit*, G.R. No. L-51770, March 20, 1985, 135 SCRA 465.] The questioned confession shows that while the accused was informed of his right to counsel, he was not definitely asked whether he wanted to avail such right, contrary to our ruling in the case of *People v. Velasco* [G.R. No. 54335, December 14, 1981, 110 SCRA 319 (1981).] Furthermore, he was not made to understand that, if at any time during the interrogation he would

wish to have the assistance of counsel, the interrogation would cease until an attorney is present [People v. Lasac, G.R. No. 64508, March 19, 1987, 148 SCRA 624, citing Miranda v. Arizona, 384 U.S. 436 (1966).] With the manifest failure to comply with this constitutional sine qua non, the confession must be held inadmissible.

In People v. Nicandro [G.R. No. 59378, February 11, 1986, 141 SCRA 289], this Court explained the essence of the right of the accused to be apprised of his constitutional rights, thus:

When the Constitution requires a person under investigation to be informed of his right to remain silent and to counsel, it must be presumed to contemplate the transmission of meaningful information rather than just the ceremonial and perfunctory recitation of an abstract constitutional principle. As a rule therefore, it would not be sufficient for a police officer just to repeat to the person under investigation the provisions of Section 20, Article IV of the Constitution. He is not only duty-bound to tell the person the rights to which the latter is entitled; he must also explain their effects in practical terms, e.g., what the person under interrogation may or may not do, and in a language the subject fairly understands. (See People vs. Ramos, 122 SCRA 312; People v. Caguioa, 95 SCRA 2.) In other words, the right of a person under interrogation 'to be informed' implies a correlative obligation on the part of the police investigator to explain, and contemplates an effective communication that results in understanding what is conveyed. Short of this, there is a denial of the right, as it cannot truly be said that the person has been 'informed' of his rights. Now, since the right 'to be informed' implies comprehension, the degree of explanation required will necessarily vary, depending upon the education, intelligence and other relevant personal circumstances of the person under investigation. Suffice it to say that a simpler and more lucid explanation is needed where the subject is unlettered.

This was reiterated in People v. Duhan [G.R. No. 65189, May 28, 1986, 142 SCRA 100] and recently in People v. Albofera [G.R. No. 69377, July 20, 1987, 152 SCRA 123] and People v. Taruc [G.R. No. 74655, January 20, 1988.]

Without the extrajudicial confession, the resolution of the question of whether the guilt of the accused has been proved beyond reasonable doubt hinges on the credibility of the apprehending officer who allegedly witnessed the sale, Sgt. Angel Nieves. In this regard, it bears emphasizing that the trial court's findings on credibility of witnesses are, as a rule not disturbed on appeal except where certain facts of substance and value are overlooked, which if considered would affect the result of the case [U.S. v. Estrada, 24 Phil. 401 (1913), People v. De Otero, 51 Phil. 201 (1927), People v. Caboverde, G.R. No. 66646, April 15, 1988, and People v. Capulong, G.R. No. 65674, April 15, 1988.]

The testimony of Sgt. Nieves is vital, because it is the only evidence left to support the conclusion that FLORES was indeed selling marijuana when arrested, since Annalisa Santos, the alleged buyer-poseur, did not testify nor did she appear before the investigating fiscal or, even execute a statement. Considering the constitutional presumption of innocence in favor of the accused, the testimony of Sgt. Nieves must be subjected to close and careful scrutiny.

After a close and painstaking examination of the record, the Court finds that standing alone, the testimony of Sgt. Nieves fails to satisfy the quantum of proof necessary to support a judgment of conviction. The inconsistencies and material discrepancies, in his testimony engender serious doubt as to its reliability and veracity.

In the sworn statement that he and the other CANU officers executed on 21 August 1980, the time of the apprehension in flagrante was indicated as 12:10 p.m. When he first took the witness stand however on 19 June 1981, Nieves testified that they conducted the "buy-bust" operation at 8:30 p.m. When he next testified on 22 July 1981, still on direct examination, he reversed himself and said that the incident indeed happened at 12:10 p.m. On 27 November 1981 on cross examination, he again reverted to his original answer, stating that it was really at 9:30 p.m. when the arrest took place. The record reveals this series of conflicting answers of Sgt. Nieves:

When he first testified on 19 June 1981, he said:

* * *

Q

. . . . Now you said that on the following day you continued your operation, about what time was that when you started that operation the following day?

A

8:30 p.m.

Q

And who were your companions?

A

CIC Tamondong and confidential informer and myself. [tsn, p. 6, June 19, 1981]

Later, during the continuation of the direct examination on 22 July 1981, Sgt. Nieves reversed himself.

Q

Sgt. Nieves, this operation that you conducted on August 21, 1980 where you apprehended accused Ernesto Flores concerning fifteen sticks of marijuana what time of the day did this happen?

ATTY. MARTINEZ

We object because earlier the witness testified that the apprehension was 8:30 p.m.

FISCAL

That is why the witness is going to explain that.

COURT

May answer.

A Noontime of August 21. [tsn, p. 10, July 22, 1981]

When cross examined on 27 November 1981, he went back to his original stance that the arrest took place at 9:30 p.m., thus:

* * *

Q

So, let us make this clear. On your oath, you will say that on August 21, 1980 at 9:30 p.m., your CI bought from the person you call Nestor Flores these 15 marijuana stalks, which is the same testimony you gave on June 19, 1981?

A

What I know is that our CI bought the 15 stalks at 9:30 p.m. of August 21, and I was there. I was the one who poked him.

Q

You are sure now of the date, August 21, and the time, 9:30 p.m., that your CI bought from the person of Nestor Flores these 15 stalks of marijuana?

A Yes sir.

Q

You are sure of that?

A Yes sir.

Q So, it is not August 21, at 12:00 noon?

A No, it was 9:30 p.m.

Q On July 22, 1981, you remember you testified here?

A Yes sir.

Q

And on that date you also declared that you had an operation on August 21, 1980, and you apprehended Nestor Flores as you claimed his name was, at 12:00 noon?

A No sir, the question of the fiscal at the time was wrong. The truth is that as I will now affirm is 9:30 p.m.

Q

But is it not true when I asked you to clarify whether it was 12:00 noon or 9:30 when you made the apprehension, you said it was noontime and you were changing your testimony of June 18?

A

No sir, that is not correct. The truth is that it is at 9:30 in the evening. If ever there was a mistake before, the truth is that it is 9:30 p.m.

* * *

Q I am showing you Exhibit A, will you inform the Court whether this is the joint affidavit the three of you executed?

A Yes sir.

Q

And I will quote to you this paragraph "that on or about 12:10 p.m. August 21, 1980, we arrived in the target area and placed ourselves in strategic positions so that we can arrange signals from our CI ---" (counsel reading entire paragraph) you remember having said that in your affidavit?

A Yes sir.

Q And the time is 12:10 p.m., August 21, 1980?

A Yes sir.

Q And this is your declaration as the date and time when you apprehended the accused in this case?

A That is a clerical error, sir. The truth is it was 9:30 in the evening.

Q

What is this 12:10 p.m. stated in your affidavit?

A There must be a mistake when the affidavit was typed.

Q Why did you not correct that before signing it?

A Sometimes we overlook some things sir.

Q

Is it not true that you swore to the contents of this affidavit before Capt. Gutani?

A Yes, but there were portions I overlooked.

Q

May we ask that the paragraph be encircled and marked as Exhibit 1. And it was on July 22, 1981, on direct examination by counsel that you sought to change the date and time from your earlier testimony of June 19, 1981 that your apprehension was 9:30 as you are now insisting today and changed it to 12:00 noon when you testified on July 22, 1981, when this particular affidavit was shown to you?

A

Did I not say before that that is only a clerical error. It is true that I was the one who apprehended that person and he has long been selling marijuana, and it was at 9:30 p.m.

Q Did you not declare on July 22, 1981 that your apprehension was August 21, at twelve noon?

A

I did not understand the fiscal's question before, but now I understand it very well and I'm trying to explain it because my mind is clear. [tsn, P. 6, November 27, 1981].

The trial court attached little importance to this discrepancy in the testimony of Sgt. Nieves, According to the court, the mistake was due to the numerous CANU operations Nieves had participated in. [Rollo, p. 44.] This is untenable. It is precisely because of these numerous operations that the witness must be sure that what he is

testifying to is the same incident and not any other. Furthermore, he had no reason at all to mistake that arrest for some other apprehension as he in fact was allowed by the Court to refer to certain notes to refresh his memory while testifying [tsn, p. 5, June 19, 1981.]

As a lingering doubt remains as to whether Nieves was testifying to the same incident, or whether it was some other, such doubt must be resolved in favor of the accused. Due to the harshness of the penalty imposed by law and specially where a person's liberty for the rest of his life is at stake, the time of the incident becomes material to prove to a moral certainty, that when arrested, the person charged was indeed committing a crime.

Thus, the contradictory testimony of Sgt. Nieves, on the vital matter of the time the apprehension took place casts a grave doubt, nay, destroys his credibility.

If, as Sgt. Nieves insists, he arrested FLORES at night, in the act of selling marijuana, his testimony is discredited by other evidence tending to show that FLORES was arrested at noontime. After the arrest, the CANU officers executed a statement (Exh."A") indicating the time of the arrest as 12:10 p.m. Sgt. Tamondong, one of the arresting officers, also testified that the arrest took place at 12:10 p.m. (tsn, p. 5, February 26, 1982) and that he investigated FLORES that same afternoon. FLORES himself admitted that he was arrested while buying viand for his lunch from Benita Cleofas's store, and the latter confirmed this fact.

In the light of this contradictory evidence, the detailed account by Sgt. Nieves of the nighttime arrest cannot be taken as basis to establish that at noontime, on 21 August 1980, FLORES was arrested in flagrante.

The record further reveals certain traces of prevarication which cast serious doubt on the credibility of Sgt. Nieves. He testified that during the "test buy" operation, the day prior to the arrest, he was with both CIC Fider and Sgt. Tamondong and that the latter was waiting inside the car while they waited for the informer [tsn, p. 1, 19 July 1981.] Sgt. Tamondong however testified that he was not with Nieves and Fider during that day.

Secondly, Sgt. Nieves stated that the accused had long been selling marijuana. On cross-examination however, he admitted that he came to know the accused only after apprehending him.

Furthermore, Nieves testified that the two five peso bills he gave to the buyer-poseur were marked, and that these same bills were the ones taken from FLORES. The evidence on record however shows that only one bill was marked (Exh."B") and that the other bill had no markings at all.

While Courts generally give credence to testimonies of police officers, as it is presumed that official duty has been regularly performed [Rule 131, Sec. 5(m), Rules of Court,] this presumption cannot by itself, prevail over the constitutional presumption of innocence of the accused.

The testimony of Sgt. Nieves being highly suspect, the prosecution is left with no evidence to establish that when apprehended at 12:10 p.m., FLORES was indeed selling marijuana, the act which is the essence of the offense sought to be punished.

This fact could have been established by other evidence. But not even the testimony of Annalisa Santos, the alleged buyer-poseur was presented. Even as this Court is aware of the principle that it is the prosecution's prerogative to weigh and determine the evidence to be presented, we consider the non-presentation of Santos as witness to be fatal to the prosecution's case. Being the only alleged eyewitness other than Nieves, Santos could have corrected the material inconsistencies in the latter's testimony and, more importantly, could have positively testified on the fact necessary for conviction: that FLORES was indeed selling marijuana to her when apprehended.

As has been oft repeated, every circumstance favoring the innocence of the accused must be taken into account

and the proof against him must survive the test of reason. Only when the conscience is satisfied that the crime has been committed by the person on trial should the sentence be for conviction [People v. Ramos, G.R. No. 76744, June 28, 1988, citing People v. Bania, G.R. No. L-46524, January 31, 1985, 134 SCRA 347.]

In a fairly recent case, the Court had occasion to pass upon the competing interests of waging a determined campaign against drug addiction and respecting constitutionally protected rights of the accused, thus:

The Court strongly supports the campaign of the government against drug addiction and commends the efforts of our law-enforcement officers against those who would inflict this malediction upon our people, especially the susceptible youth. But as demanding as this campaign may be, it cannot be more so than the compulsions and the Bill of Rights for the protection of the liberty of every individual in the realm, including the basest of criminals. The Constitution covers with the mantle of its protection the innocent and the guilty alike against any manner of high-handedness from the authorities, however praiseworthy their intentions.

Those who are supposed to enforce the law are not justified in disregarding the rights of the individual in the name of order. Order is too high a price for the loss of liberty. As Justice Holmes, again, said, "I think it a less evil that some criminals should escape than that the government should play an ignoble part." It is simply not allowed in the free society to violate a law to enforce another, especially if the law violated is the Constitution itself [People v. Aminnudin, G.R. No. 74869, July 6, 1988.]

WHEREFORE, the decision appealed from is hereby REVERSED and judgment is entered ACQUITTING the accused- appellant of the offense charged.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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.