

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERNANDO P. QUEBRAL AND GERRY J. BIROG, ACCUSED, FERNANDO
P. QUEBRAL, ACCUSED-APPELLANT.**

G.R. No. 65832. January 31, 1985

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Fernando P. Quebral was sentenced to suffer the penalty of life imprisonment (reclusion perpetua) by the Regional Trial Court stationed in Dagupan City for violation of the Dangerous Drugs Act. He appealed his conviction, hence this decision.

The information which was filed by the City Fiscal of Dagupan City charged not only Fernando P. Quebral but also Gerry J. Birog. The case against Birog was dismissed upon motion of the prosecution on the ground that upon reinvestigation the evidence against him was , insufficient.

The information reads as follows:

"That on or about the 2nd day of July, 1982, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused FERNANDO P. QUEBRAL and GERRY J. BIROG, without authority of law, confederating together, acting jointly and helping each other, did then and there, wilfully, unlawfully and criminally, sell, deliver, distribute, dispatch in transit or transport and give away to another, fifty (50) miligrams of dried 'Marijuana' leaves or Indian Hemp, worth ONE HUNDRED PESOS (P100.00), Philippine currency, without authority of law. " (Expediente, p. 1.)

Two judges tried the case, namely: Judge Willelmo C. Fortun and Judge Crispin C. Laron. Judge Fortun heard the testimony of the following prosecution witnesses: Patrolman Carlito Ocampo, Patrolman Bernardo Gonzales and Patrolman Reynaldo Orprecio. Judge Laron heard the testimony of Girlie de Guzman, NBI forensic chemist, appellant Quebral and Patrolman Benjamin Hortaleza, a rebuttal witness.

It was Judge Laron who decided the case. The decision which was promulgated on July 20, 1983, contains the following judgment:

"WHEREFORE, the Court finds accused Fernando P. Quebral GUILTY beyond reasonable doubt of the crime of Violation of Section 4 of Republic Act Number 6425, as amended by P.D.- No. 16 75 dated February 17, 1980, otherwise known as the Dangerous Drugs Act, and, pursuant to law, hereby sentences him to suffer an imprisonment of reclusion perpetua (life imprisonment) and to pay a fine of twenty-five thousand (P25, 000. 00) pesos." (Expediente, pi 117.)

The appellant makes five assignment of errors but they can be reduced to the following propositions:

1. That the trial court erred in giving credence to the evidence for the prosecution instead of that for the defense; and
2. That the sworn statements of the accused were given in violation of his constitutional rights during custodial

investigation.

The People's version of the facts is as follows:

"Acting on an information that appellant Fernando Quebral was selling marijuana, Pfc. Bernardo Gonzales, head of the Anti-Narcotics Section - Dagupan City Police Station, laid out plans to entrap accused-appellant with informer Glen Barrozo as buyer. Pursuant to this plan, Glen Barrozo was given a one hundred peso bill, serial No. DT-189071 with instructions to procure marijuana from the appellant (pp. 2, 3, 4, 5, tsn., Aug. 31, 1982). Knowing that the transaction for the purchase and sale of the marijuana leaves was to take place on July 2, 1982 at about 6:30 p.m., Pfc. Gonzales and one Patrolman Reynaldo Orprecio deployed themselves in the Pantranco Station at M. H. del Pilar St., Dagupan City where the sale was to be made. Thereat, he (Gonzales) saw Glen Barrozo hand the money to appellant who in turn delivered the marijuana leaves (pp. 7, 8, tsn, id.). Arrested thereafter for violation of Sec. 4, R. A. No. 6425 as amended by P.D. No. 1775, appellant, being informed of his constitutional rights and having made a waiver thereof, executed a sworn statement (Exhibits "A" - "A-3") wherein he admitted having sold marijuana leaves to Glen Barrozo. The confiscated marijuana leaves were then forwarded to the National Bureau of Investigation forensic chemist for microscopic, chemical and chromatographic examination. The examinations yielded positive results for marijuana. " (Appellee's brief, pp. 1-2.)

The appellant assails the testimonial evidence against him; he says that it is not entitled to belief because the witnesses against him were biased and partial. But he did not substantiate this claim. Upon the other hand Patrolman Bernardo Gonzales positively identified the appellant as the person who delivered to Glen Barrozo leaves which turned out to be marijuana. A part of the testimony of Gonzales is reproduced:

"FISCAL ORLINO

q

When you arrived at the Pantranco Station on July 2, 1982 at about 6:30, will you tell us if you have seen Glen Barrozo and Fernando Quebral the accused?

a

Yes, sir.

q

What did you do?

a

I just passed by them.

q

And what happened next?

a

Glen Barrozo handed the money to Fernando Quebral and in turn Fernando Quebral handed the marijuana.

COURT

q

Handed the money to whom?

a

To the accused Fernando Quebral and the accused delivered the marijuana to Glen Barrozo, sir.

q

How far were you from when you saw Glen Barrozo give the money of ₱100.00 to the accused and the accused in turn delivered the marijuana leaves to Glen Barrozo?

a

Around 10 meters, sir." (TSN, p. 56.)

The testimony of Patrolman Gonzales was substantially corroborated by Patrolman Reynaldo Orprecio.

Patrolman Gonzales testified that he recovered the ₱100.00 marked money from Siapno's Grocery where the appellant bought cigarettes. The appellant decries the fact that the owner of Siapno's Grocery was not called by the prosecution. He says the same thing about Glen Barrozo. Suffice it to say that it is the prosecution's privilege to present such number of witnesses it deems sufficient. If the testimony of the two was essential for his defense, the appellant should have presented them as his witnesses.

The appellant executed an extra-judicial confession on July 2, 1982. It forms part of the prosecution's evidence and has been marked as Exhibit A. The confession covers four (4) pages and is replete with details. One of the questions propounded to the appellant and his answer thereto positively show the commission of the crime for which he stands convicted:

"32 - Q -

I am showing to you this marijuana leaves placed in a plastic bag, weighing more or less 50 milligrams, will you please look at it and tell me the relation of this marijuana leaves to that marijuana leaves which you sold to Mr. Barrozo?

A -

This is the same marijuana leaves which I sold to Mr. Barrozo, sir." (Expediente, p. 5.)

Article IV, Section 20 of the Constitution provides:

"SEC. 20. 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. "

The appellant claims that his constitutional rights were violated and consequently his confession should not have been admitted in evidence since he was not assisted by counsel or if he had waived assistance of counsel the waiver should have been in the format approved by the departments of Justice and National Defense. He does not inform the Court the wording of the format.

Exhibit A - the appellant's extra-judicial confession - contains inter alia, the following:

"Preliminary - Mr. Fernando Quebral, I would like to inform you that you are under investigation in connection with your involvement in the commission of an offense. Under Article IV, Section 20 of the New Constitution, you have the right to remain silent and be assisted by a lawyer of your own choice and if you can not afford to hire one, we will provide you with a free counsel, is this clearly understood by you?

Answer - Yes, sir.

Question - After having been informed of your right under the New Constitution, are you willing to give a free and voluntary statement?

Answer - Yes, sir.

Question - Do you still need the assistance of a lawyer?

Answer - No more, sir.

Question - I would like to inform you further that whatever you may state maybe used against you or in your favor in any Court of Justice in our country, is this also clearly understood by you?

Answer - Yes, sir.

Question - Are you willing to affix your signature to affirm to the truthfulness of what you stated above?

Answer - Yes, sir," (Expediente, p. 3.)

(Expediente, p. 3.)

We hold that in the light of the foregoing, the appellant's constitutional rights have not been violated. The waiver of counsel made by the appellant was sufficient in form and substance to meet the constitutional requirement.

WHEREFORE, finding no reversible error in the appealed decision, the same is hereby affirmed in its entirety with costs against the appellant.

SO ORDERED.

Makasiar, J. , Chairman, Aquino,. Concepcion, Jr. , Escolin, and Cuevas, JJ., concur.

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